INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

REPORT OF CANADA

On the Implementation of the Provisions of
Articles 6 to 9 of the Covenant

August, 1980

Preparation of this report started in 1977 and was completed after extensive consultations between federal and provincial governments.

Although some data were updated all along, the document mainly reflects the situation which prevailed in Canada during the period when the main data were gathered, that is in 1978 for most parts. Since then, some of the programs which are described in the report were modified or replaced. Similarly some legislative enactments were amended and new laws were enacted.

It would have been virtually impossible to update all the information contained in the report without further delaying its completion. As its purpose was to describe the general situation in Canada and the main measures which were adopted and which give effect to the provisions of Articles 6 to 9 of the Covenant, the report remains valid in this regard even if some data are not completely up to date.

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PART I: GENERAL INTRODUCTION

A. Background

The International Covenant on Economic, Social and Cultural Rights was adopted unanimously by the United Nations General Assembly on December 16, 1966, at the same time as the International Covenant on Civil and Political Rights and the Optional Protocol to the latter Covenant.

On May 19, 1976 Canada acceded to the two Covenants and the Optional Protocol, which, according to their terms, came into force for Canada three months later, on August 19, 1976. The two Covenants and the Protocol had come into force at the international level a few months previously.

Before depositing Canada's instruments of accession to these instruments the federal government obtained the agreement of all the provinces in the Canadian confederation, which undertook to adopt the measures necessary for the implementation of the Covenants in the areas under their jurisdiction.

At a Federal-Provincial Conference on Human Rights held in December 1975 the federal and provincial governments reached an agreement on procedures and mechanisms for implementing these instruments and set up a Continuing Federal-Provincial Committee of Officials Responsible for Human Rights. The committee meets twice a year and studies particular questions concerning the implementation of the two Covenants. This body has proved to be an effective instrument of liaison and exchange between the federal and provincial governments in the implementation of the Covenants.

Within the federal government an Interdepartmental Committee on Human Rights, established in 1975, regularly examines questions relating to the implementation of the Covenants. In several provinces official bodies are performing functions of this nature.

B. The Canadian constitutional system

Canada is a federal state comprising ten provinces, Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan as well as two territories, the Northwest Territories and the Yukon Territory.

Within the Canadian confederation the powers of government are exercised by the federal, the provincial and, pursuant to a delegation of powers by Parliament, the territorial governments. As regards Articles 6, 7 and 8 of the Covenant, each level of government, within its area of jurisdiction, can give effect to the rights recognized therein. For most workers, this means that the rights recognized in these Articles will be protected by provincial law since under Canadian constitutional law, as interpreted by the courts, the provinces, as a rule, have the power to legislate in respect to employment, conditions of work and labour relations (British North America Act, 1867, s. 92(13) (Property and Civil Rights)). For its part, Parliament also has jurisdiction in these areas. However, its powers are limited to matters which come under s. 91 of the British North America Act, such as the federal public service, banks, undertakings linking one province to another or extending beyond the boundaries of a province, interprovincial transportation or communication undertakings, works declared to be for the general advantage of Canada or of two or more provinces and undertakings over which neither the federal government nor the provinces have been given jurisdiction under their enumerated powers.

So far as the right to social security recognized by Article 9 of the Covenant is concerned, the British North America Act, 1867 does not assign the subject of social assistance to the provinces or to the federal government. In general, however, social assistance is regarded as being within the powers of the provinces, in view of their express and exclusive jurisdiction over "hospitals, asylums, charities and eleemosynary institutions in and for the provinces" (s 92(7)), "property and civil rights in the province" (s 92(13)), "municipal institutions in the province" (s 92(8)), and "generally all matters of a merely local or private nature in the province" (s 92(16)). However, the federal Parliament also possesses some jurisdiction in this area. The British North America Act, 1867 confers on it exclusive powers over "unemployment insurance" (s 91(2A)). It also empowers it to "make laws in relation to old age pensions and supplementary benefits, including survivors' and disability benefits irrespective of age", provided that "no such law shall affect the operation of any law present or future of a provincial legislature in relation to any such matter" (s 94A).

Finally, it should be noted that only the Federal Parliament can make laws which deal with Indians as Indians and with lands reserved for Indians. (British North America Act, 1867, Section 91 (24)).

In consideration of a case which had its origins in the Province of Québec, the Supreme Court of Canada, in 1939, held that Indian, under Section 91 (24) of the British North America Act, 1867 includes Inuit/Eskimo. It appears that these powers were given to the Federal Parliament in order that there would be a common policy towards all native people and lands throughout Canada and in order to secure as much protection as possible for native people and lands.

In Canada, international treaty law is not automatically part of the law of the land. The provisions of a treaty can be incorporated into domestic law either by the enactment of a statute giving the treaty the force of law or by amendment of the domestic law to make it consistent with the treaty, where necessary. The implementation of a treaty whose provisions come under the jurisdiction of one or the other or both levels of government requires the intervention of the Canadian Parliament, the provincial legislatures and, unless Parliament decides otherwise, of the territorial legislative assemblies for those parts of the treaty that fall within the jurisdiction of each.

Although all governments in Canada have undertaken to give effect to the provisions of the Covenant, no government has as yet decided to incorporate into its legislation as such the provisions of the Covenant that fall within its jurisdiction. In order to meet its obligations, however, each government has committed itself to amend its domestic law to make it consistent with the Covenant, if after study this proves to be necessary. It should be noted, however, that most of the rights recognized in articles 6 to 9 of the Covenant are already protected in Canada. Even before the Covenant came into force in Canada, both levels of government had, each within the ambit of its jurisdiction, singly or in cooperation with each other taken steps to implement the provisions of these articles and to protect these rights.

C. Contents of the report

This report concerns the implementation of Articles 6 to 9 of the International Covenant on Economic, Social and Cultural Rights, pursuant to the provisions of Articles 16 and 17 of the Covenant and in accordance with the program adopted by the United Nations Economic and Social Council. The general guidelines adopted by the Council and submitted by the Secretary-General in June 1977 served as a basis for its preparation.

The report contains three main parts. First there is the General Introduction, which contains a brief background summary, comments on the Canadian constitutional system, notes on the contents of the report and notes on other reports submitted to the United Nations Organization.

The second part deals with the status of articles 6 to 9 in areas of federal jurisdiction. It is divided into two sections. The first deals with the measures taken by the federal government (exclusive of those taken by the territorial governments). It contains two subsections, one of which describes the measures taken by the federal government while the other relates how the provisions of these articles are given suit in the Federal Public Service. The second section deals with Canada's two northern territories, the Northwest Territories and the Yukon Territory. Unlike the provinces, which are allocated very specific areas of responsibility by the British North America Act, the territories are the creation of the Parliament of Canada, which has given them responsibilities similar to those of the provinces. The chief exception is the right to oversee natural resources (except game), which remains in the hands of the federal government. In the part of the report devoted to the federal government there is, therefore, a separate part dealing with the measures specific to the territories.

The third part deals with the implementation of the Covenant in the provinces, with one chapter for each province. The agreement concluded between the federal and provincial governments in 1975 provided that a province wishing to do so could prepare its own reports on implementation of the Covenants in the areas under its jurisdiction. In the case of this report seven provinces took advantage of this prerogative, while the reports concerning the other three provinces were prepared by the federal government in close consultation with these provinces and on the basis of the information supplied by them. A note at the foot of the first page of each chapter indicates the source of the report.

The general guidelines provided by the Secretary-General require statistics on various items. Canada has a centralized statistics bureau, known as Statistics Canada, whose responsibility it is to collect, analyse and publish statistical information relating to the commercial, industrial, financial, social, economic and general activities and conditions of the people of Canada. It is charged with promoting and developing a system of integrated social and economic statistics pertaining to the whole of Canada and each of the provinces thereof. The original legislation to create a centralized statistics bureau was passed in 1918, and the current mandate is defined by the Statistics Act of 1971. Some statistics are provided where appropriate and an appendix to the report contains tables of the principal statistics required.

The general guidelines provided by the Secretary-General indicate that "it will be appreciated if copies of the principal laws, regulations, collective agreements and court decisions mentioned in the reports are attached". Principal texts of law and other documents discussed in this report are being transmitted to the Secretary-General as reference material, under separate cover.

D. Reports submitted under other instruments of the United Nations Organization

Article 17 of the Covenant in paragraph 3 provides as follows:

> "Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice."

Canada has regularly submitted reports to the United Nations Organization under the terms of various treaties and in answer to other requests of the Organization.

a) International Covenant on Civil and Political Rights

In April 1979, Canada submitted the report required under the terms of Article 40 of that Covenant.

b) Conventions of the International Labour Organization

Canada ratified several conventions of the International Labour Organization which are relevant to a greater or less extent to the articles under review.

In 1964 Canada ratified Convention No. 111 - Discrimination (Employment and Occupation) 1958, which appears to be of some relevance to paragraph 2 of Article 2.

In relation to Article 6 Canada ratified the following conventions: Convention No. 88 - Employment Service, 1948, in 1950; Convention No. 105 concerning the Abolition of Forced Labour, 1957, in 1959 and Convention No. 122 - Employment Policy, 1964, in 1966.

In relation to Article 3 and Article 7 (clause (a)), in 1972 Canada ratified Convention No. 100 - Equal Remuneration, 1951; and in 1935 Convention No.26 - Minimum Wage - Fixing Machinery, 1928.

In relation to Article 7 (clause (d)), regarding rest and working hours Canada ratified Convention No. 14 - Weekly Rest (Industry), 1921, in 1935; and Convention No. 1 - Hours of Work (Industry), 1919, also in 1935.

In relation to Article 8, in 1972 Canada ratified Convention No. 87 - Freedom of Association and Protection of the Right to Organize, 1948.

As required under Article 22 of the Constitution of the International Labour Organization, the government of Canada has been sending biennial reports to the ILO concerning the implementation in Canada of the above mentioned Conventions. These reports cover all Canadian jurisdictions. In 1977, Canada also submitted a report on ILO Recommendation 123 on Employment of Women with Family Responsibilities, 1965.

It should be noted that, in May 1978, Canada denounced Convention 45 (Convention concerning the Employment of Women in Underground Work in Mines of all Kinds), ratified by Canada in 1966. The denunciation of this Convention which took effect May 19, 1979, was explained in the following way:

> "The Government of Canada is aware that at the time of its adoption, Convention 45 was intended to prevent exploitation of women workers and was thus considered a step toward social progress. However, it is now considered within the various jurisdictions of Canada that the Convention limits the employment opportunities of women and that it is, therefore, in contradiction to the principle of equality of treatment and opportunity between men and women workers, to which the Government of Canada attaches great importance".

c) International Convention on the Elimination of All Forms of Racial Discrimination

Canada ratified the International Convention on the Elimination of All Forms of Racial Discrimination on October 14, 1970. In compliance with Article 9 of that Convention Canada submitted a first report on that Convention one year after the entry into force of that Convention for Canada. Since then four biennial reports have also been submitted.

These reports mainly described the enactment of anti-discrimination legislation by the provinces and by the federal government, the setting up of enforcement agencies and the adoption of numerous positive programs in favour of disadvantaged racial or ethnic minorities.

d) United Nations Yearbook on Human Rights

It should also be mentioned that Canada has been contributing to the Yearbook on a regular basis. Many measures reported in the contribution of Canada during the recent years pertain to the areas of coverage of Articles 6 to 9 of this Covenant.

PART II: MEASURES ADOPTED BY THE FEDERAL GOVERNMENT AND BY THE NORTHWEST TERRITORIES AND THE YUKON TERRITORY

INTRODUCTION

i) Comments on Articles 1-5

The General Guidelines submitted by the Secretary-General for the preparation of the report request States Parties, in reporting on the rights covered by Articles 6-9, to give attention to the matters dealt with in Parts I and II - Articles 1 to 5 of the Covenant. This will be done as pertinent in the detailed examination of the measures which give effect to the provisions of Articles 6-9. In this introduction, however, some remarks will be made on general measures which may apply to a certain extent to all of the four articles.

> "(1) The right to self-determination, as recognized in Article 1 of the Covenant;"

The Federal Government subscribes to the principles set forth in this Article.

> "(2) Measures taken, ... as regards ensuring the exercise of the rights covered by Articles 6-9 without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 2 (2));"

The existence of fundamental human rights and freedoms, including the right of every individual to participate in society without encountering discrimination, is a basic and underlying principle which has long been recognized by the Parliament and Government of Canada at both the international and domestic level.

In 1960 Parliament adopted the Canadian Bill of Rights (An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms, passed and assented to 10th August, 1960). Article 1 of the Bill of Rights provides the following:

> "It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,
>
> a) the right of the individual to life, liberty, security of the person and enjoyment of

property, and the right not to be deprived thereof except by due process of law;

b) the right of the individual to equality before the law and the protection of the law;

c) freedom of religion;

d) freedom of speech;

e) freedom of assembly and association; and

f) freedom of the press."

The Canadian Human Rights Act, adopted in 1977, gives further legal recognition to some of these rights by providing, for the first time, a comprehensive set of rules against discrimination at the federal level.

The objectives of the Government of Canada in proposing the adoption of the Canadian Human Rights Act, were to state the existing law of Canada with regard to discrimination in as simple and straight-forward a manner as possible, to make this law as comprehensive and effective as possible, to bring the law under one single statute and to entrust its administration to a single independent body, the Canadian Human Rights Commission.

In accordance with these objectives, the new Act expands the existing protection against discriminatory practices in employment practices and extends similar protection to services, facilities and accommodations coming within the legislative authority of the Parliament of Canada. These include such matters as services, facilities and accommodations provided by banks, railways and airlines as well as agencies and departments of the federal government.

In the words of the Act:

> "every individual should have an equal opportunity with other individuals to make for himself or herself the life that he or she is able and wishes to have, consistent with his or her duties and obligations as a member of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex or marital status, or conviction for an offense for which a pardon has been granted or by discriminatory employment practices based on physical handicap;" paragraph 2.(a).

Under the terms of the Canadian Human Rights Act a Canadian Human Rights Commission was established consisting of a Chief Commissioner, a Deputy Chief Commissioner and six other members appointed by the Governor in Council. The

Commission is empowered to enforce the Act and to exert wide functions for the promotion of its principles.

The Canadian Human Rights Act provides for protection and remedies through the Canadian Human Rights Commission against acts of discrimination. Part III of the Act explains how complaints may be processed.

Any individual or group of individuals having reasonable grounds for believing that a person is engaging or has engaged in a discriminatory practice, may file a complaint with the Commission (Subsection 32(1)).

Where the Commission has reasonable grounds for believing that a person is engaging or has engaged in a discriminatory practice, the Commission may initiate a complaint (Subsection 32(3)).

The Commission may designate a person to investigate a complaint (Subsection 35(1)).

Section 37 provides that the Commission may appoint a "conciliator" for the purpose of attempting to bring about a settlement of the complaint.

The Commission may, at any stage after the filing of a complaint, appoint a Human Rights Tribunal to inquire into the complaint.

If a Tribunal is composed of fewer than three members, an appeal may be made against its decision to a Review Tribunal constituted by the Commission.

Section 43 of the Act provides that any order of a Tribunal or of a Review Tribunal may, for the purpose of enforcement, be made an order of the Federal Court of Canada and is enforceable in the same manner as an order of that Court.

Every person is guilty of an offence who fails to comply with the terms of a settlement, who obstructs an investigator or a Tribunal, who reduces wages in order to eliminate a discriminatory practice, or who threatens, intimidates or discriminates against an individual because that individual has made a complaint or given evidence or assisted in any way in respect of the initiation or prosecution of a complaint or other proceeding under the Act. The penalty, if the accused is an employer, an employer association or an employee organization is a fine not exceeding fifty thousand dollars; in any other case a fine not exceeding five thousand dollars.

In the international field, Canada has been contributing to international development, mainly since 1950. This effort has increased since 1968 with the creation of the Canadian International Development Agency (CIDA). In 1970, the

Federal Government confirmed this new impulsion in the process of the review of its Foreign Policy. Five years later, the Strategy for Development Co-operation for the period 1975-80 underlined the increasing importance of Canadian relations with developing countries and expressed the seriousness of its commitments based on four underlying principles.

1. A commitment to increased sharing of Canada's wealth.

2. The transfer of resources in such a way as to increase the self-reliance of developing countries especially in their research capacity.

3. The concentration of development assistance in the poorest developing countries.

4. Priority attention to meeting the basic needs of their population, and to the participation of all social groups in the development process.

The use of different channels (Multilateral, Bilateral and Non-Governmental Organizations) enables CIDA to be more flexible and answers the need of all parties involved.

> "(3) To what extent non-nationals are guaranteed the rights dealt with in Articles 6-9;"

The rights dealt with in Articles 6-9 are guaranteed to all permanent residents. Visitors may be granted employment authorizations, usually for employment with a specified employer and for a particular occupation, in which case their employment will be subject to basically the same conditions as that of Canadian citizens and permanent residents. With respect to social security, special guarantees are accorded to various categories of temporary residents, in particular visiting professors, scholars, students and people with a work permit.

> "(4) Measures taken, difficulties encountered and progress achieved, under Article 3, as regards ensuring the equal rights of men and women to the enjoyment of the rights set forth in Articles 6-9;"

The legislation previously referred to, together with a number of other measures, have contributed to considerable progress in Canada as regards ensuring the equal rights of men and women to the enjoyment of the rights set forth in Articles 6-9.

In 1967 the federal government established a Royal Commission on the Status of Women in Canada. The report of the Commission, published in 1970, continues to be examined and its recommendations have led the government to adopt a number of measures designed to eliminate discrimination against women and to promote greater equality between men and women.

In the early 70's, an Office of the Co-ordinator, Status of Women, was established, becoming an independent office in April 1976 and reporting directly to the Minister Responsible for the Status of Women. This Office has the mandate to advise the Minister and to ensure that all programs and policies of the federal government take into account the concerns of women. The Office also has a public information component to inform people of new federal initiatives for women.

In 1973 the federal government appointed a council of citizens, the Advisory Council on the Status of Women. Its purpose is: "to bring before the Government and the public, matters of interest and concern to women; and to advise the government on actions that it deems necessary to improve the position of women in society." During the recent years the Council published reports and recommendations on various issues, among others, on fringe benefits and pensions, maternity leave benefits, taxation and occupational health hazards.

International Women's Year (1975) served to focus attention not only on issues of broad concern to women, but also on the need for specific measures to deal with them. As a result, a number of important pieces of legislation were passed by Parliament. Notable among this legislation was the Statute Law (Status of Women) Amendment Act, 1974 which amended ten acts to provide equality for women. Areas covered ranged from elections, immigration, and public service employment through to pensions, unemployment insurance and national defence.

At the World Conference held in Mexico City during International Women's Year (1975), it was agreed that countries would develop a National Plan of Action. In December 1978 Cabinet approved a document on the National Plan of Action on the Status of Women. In a series of recommendations aimed at all federal departments, the document establishes a timetable through 1985 which is designed to mobilize government action on status of women issues. The recommendations were developed through the work of twelve interdepartmental working groups on various topics which studied a variety of documents and recommendations proposed over the years by women, women's groups and government agencies. The document focuses on four areas of government responsibility: legislation, policy change, programme changes and research. A copy of the document entitled "Towards Equality for Women" is being sent to the Secretary-General with the present report.

In the international field, at the level of the Canadian Aid Program, a new centre of responsibility was created in 1976 within the Canadian International Development Agency, the Program of Integration of Women in Development. This program aims - (1) to promote policies and strategies favourable to the participation of women in the process of social and economic development of their respective country; (2) to disseminate information to planning and project managers and; (3) to organize conferences and/or meetings apt to look at the role of women in development.

> "(5) Limitations which may have been imposed upon the exercise of the rights set forth in Articles 6-9, the reasons therefor, and safeguards against abuses in this regard, with copies of the relevant laws, regulations and court decisions (Articles 4 and 5)."

In general there are very few limitations to the rights set forth in Articles 6-9. Where such limitations exist they appear to be justified by the terms of the Covenant and safeguards such as internal appeal procedures and recourses to independent boards or tribunals are in place. These are being described in the report where appropriate.

ii) Situation with regard to Native People

It should be noted that consequent to the assignment of responsibility for Indians to the Federal Government alone, under the terms of the British North America Act, measures have to be taken by the Federal Government which would normally be taken by the provinces for the other Canadian citizens and residents.

The principal legislation passed by the Federal Parliament dealing with Indians and with lands reserved for Indians is the Indian Act. Although this Act contains a definition of who is an Indian (sections 5 to 17), it does not apply to Inuit. In this report, "Indian" will be used to mean a person who fulfills that definition.

It should be noted that the Indian people have asked for and retain that special relationship with the Federal Government. It should also be noted that although the majority of Indian people live on reserves (lands reserved for Indians), all Indians have the same right of mobility, to any community of their choice, as any other Canadian.

It is recognized both by the Federal Government and by the Indian people that the present Indian Act is no longer adequate. Consequently, Indian and Federal Government representatives are working jointly on revisions to the Act.

There are various Federal Government programs to assist Indians and Inuit which are based both in law and on policy administered mainly by a specific department (Indian Affairs and Northern Development whose mandate includes administration of the Indian Act), and also by other federal departments in their relevant fields of jurisdiction. These departments implement a large number of important programs for the benefit of native people of Canada. It is not the purpose of this report to account for all of these programs, however, those relevant to Articles 6 to 9 will be described.

FEDERAL GOVERNMENT

1. GENERAL

ARTICLE 6: THE RIGHT TO WORK

"A. Principal laws, administrative regulations, collective agreements and court decisions designed to promote and safeguard the right to work as defined in this Article.

B. Information on:

(1) The right of everyone to gain his living by work which he freely chooses or accepts, with particular reference to freedom from compulsion in the choice of employment and guarantees against discrimination in regard to access to employment;"

The right of everyone to gain his/her living by work which he/she freely chooses or accepts is recognized by the federal government and individuals are free to seek employment suited to their capabilities, education, training and aspirations. Responsibility for labour matters is divided between the federal and provincial jurisdictions with responsibility for the majority of workers resting with the provinces.

Workers in the federal sphere of responsibility generally come under the terms of the Canada Labour Code administered by the Department of Labour. Federal public servants are subject to the Public Service Employment Act, the Public Service Staff Relations Act and the Financial Administration Act: See section of the report dealing with the Public Service of Canada. It is estimated that in July 1977 some 479,658 employees came under the provisions of the Canada Labour Code and an additional 282,777 under the terms of the Public Service Staff Relations Act. In July 1977 the total Canadian labour force was estimated at 10.6 million.

Federal jurisdiction as defined in the Canada Labour Code covers interprovincial and international railways, highway transport, telephone, telegraph and cable systems, pipelines, canals, ferries, tunnels, bridges, shipping services, radio and television broadcasting, air transport and airports, banks, grain elevators, flour and feed mills and warehouses, and a work, undertaking or business outside the exclusive legislative authority of provincial legislatures.

Parts III and IV of the Canada Labour Code also apply to and in respect of any corporation established to perform any function or duty on behalf of the Government of Canada other than a corporation that is a department under the Financial Administration Act. Part V also applies in respect of any corporation established to perform any function or duty on behalf of the Government of Canada and in respect of employees of any such corporation, except any such corporation, and the employees thereof, that the Governor in Council excludes from its operation. In this last case the Public Service Staff Relations Act applies. Parts III and IV of the Code do not apply to a work, undertaking or business of a local or private nature in the Yukon Territory or Northwest Territories.

The Canadian Human Rights Act of 1977 repealed Part I of the Canada Labour Code (Fair Employment Practices) as well as section 38.1 of Part III, which dealt with equal wages for male and female employees. Both these areas are covered in the Canadian Human Rights Act which is administered by the Canadian Human Rights Commission.

The Canadian Human Rights Act prohibits discrimination in areas of employment. For all purposes of the act, race, national or ethnic origin, colour, religion, age, sex, marital status, conviction for which a pardon has been granted and, in matters related to employment, physical handicap, are prohibited grounds of discrimination (section 3).

There is no federal legislation prohibiting discrimination in employment on the grounds of political or other opinion, social origin, property, birth or other status. Some of these are covered by provincial legislation and are outlined in the appropriate provincial sections of this report.

Prohibited discriminatory practices in employment are defined in Sections 7 to 10 of the Canadian Human Rights Act. In summary, it is a discriminatory practice to refuse to employ or to differentiate adversely in relation to an employee on a prohibited ground of discrimination; and to use application forms, publish advertisements, or make oral or written inquiries that imply preference based on prohibited grounds. Employee organizations may not exclude an individual from membership, or expel or suspend a member of the organization on a prohibited ground. Neither may they act in any way that would deprive or limit opportunities to members. Employer or employee organizations may not use policies or practices affecting recruitment, referral, hiring, promotion, training, apprenticeship, transfer or any matter relating to employment or prospective employment that deprive individuals of employment opportunities on a prohibited ground of discrimination.

The Canadian Human Rights Act also provides for the adoption of special programs designed to prevent disadvantages likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by any group of individuals when these disadvantages are based on or related to race, national or ethnic origin, colour, religion, age, sex, marital status or physical handicap (Section 15).

Following denunciation of ILO Convention 45 concerning the Employment of Women in Underground Work in Mines of all Kinds, as mentioned in the introduction, subsection 15(6) of the Coal Mines (CBDC) Safety Regulations was revoked. Subsection 15 (6) provided the following:

> "No female person shall be employed on underground work in any mine, except a female person who
>
> (a) holds a position of management in the mine and who does not perform manual work;
>
> (b) is employed in health and welfare services;
>
> (c) spends, in the course of her studies, a period of training in the underground parts of a mine; or
>
> (d) is required, occasionally, to enter the ground parts of a mine for the purpose of a non-manual occupation."

On its part the Employment and Unemployment Insurance services of the Canada Employment and Immigration Commission and Department recognize and promote the right to gain one's living by work, both in the principles and administration of their programs. The Manpower regulations provide for service to all nationals who request it. It is the practice however, not to refer persons for work with employers who do not provide working conditions that meet acceptable standards. Similarly, the Unemployment Insurance administration recognizes the same qualification by permitting persons to refuse job offers at establishments where the standards of employment are not appropriate, without prejudicing their right to benefit.

Moreover, the Unemployment Insurance legislation promotes the right to work by providing temporary income security to those who become unemployed and by encouraging and helping them to return to work. Those in receipt of temporary income support are not forced to take employment which is inconsistent with their previous work characteristics, but after a reasonable period of time, are expected to reduce their expectations by expanding areas of job search and accepting lower than previous wage levels.

Discrimination in the National Employment Service is prohibited through the Canadian Unemployment Insurance Act, 1971. Paragraph 139(2)(b) of this Act provides that the Employment and Immigration Commission shall:

> "ensure that in referring a worker seeking employment, there is no discrimination on a prohibited ground of discrimination within the meaning of the Canadian Human Rights Act or because of political affiliation, but nothing in this paragraph prohibits the national employment service from giving effect to
>
> i) any limitation, specification or preference based on a bona fide occupational requirement; or
>
> ii) any special program plan or arrangement designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be or are based on or related to the race, national or ethnic origin, colour, religion, age, sex, marital status or physical handicap of members of that group, by improving opportunities respecting employment in relation to such group if that special program, plan or arrangement is one that is not a discriminatory practice within the meaning of the Canadian Human Rights Act by virtue of section 15 thereof."

(2) "Policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms of the individual".

A large number of measures to achieve steady economic, social and cultural development and full and productive employment have been taken by various departments of the federal government. This report will outline the main roleand programs of some departments: the Department of

Finance, the Ministry of State for Economic Development, the Department of Regional Economic Expansion, the Employment and Immigration Commission, the Department of Agriculture and the Department of Indian Affairs and Northern Development.

1. Department of Finance

General

The growth of output and employment consistent with stability of prices is a central objective of the economic policies of the Government of Canada. Macro-economic policies are inter alia addressed to the achievement of these objectives. The Department of Finance is the central agency of the federal government responsible for advice on fiscal and demand management policies. The Bank of Canada is the government's fiscal agent and is responsible for the conduct of monetary policy in harmony with the government's objectives.

Recent Developments

In recent years, Canada, in common with most countries, has experienced continuing high levels of both unemployment and inflation. This has resulted in renewed debate over basic issues of economic analysis and policy.

Restoring wage and price stability is a prerequisite to the growth needed to return to full employment. The experience of recent years has made it clear that inflation is the enemy of growth: it weakens consumer and business confidence and erodes a country's ability to compete in foreign markets. Battling inflation imposes limits on the extent to which the government can resort to fiscal and monetary policies to enhance short-term growth in real demand.

2. Ministry of State for Economic Development

In December 1978, the Federal Government established a Ministry of State for Economic Development to be presided over by a Minister of State to be known as the Minister of State for Economic Development. This Minister shall formulate and develop policies with respect to:

> "a) the most appropriate means by which the Government of Canada may, through measures within its field of jurisdiction, have a beneficial influence on the development of industries and regional economies in Canada,
>
> b) the integration of programs and activities providing direct support to industry including their coordination with other policies and programs of the Government of Canada, and

c) the fostering of cooperative relationships with respect to industrial development with the provinces, with business and labour and with other public and private organizations."

In relation to the formulation and development of the aforementioned policies, the following powers, duties and functions were assigned to the Minister:

"a) He shall, in concert with and as the President of a board of Ministers to be called the Board of Economic Development Ministers,

i) define an integrated federal approach to the provision of direct support to industry and economic development in Canada both by industrial sector and by region,

ii) review and concert proposals by departments prior to their consideration by Treasury Board or by the Governor in Council, and

iii) develop mechanisms to improve and to integrate program delivery at the local or regional level;

b) He shall advise the Treasury Board on the allocation of financial, personnel and other resources to federal programs that provide direct support to the development of economic enterprise in Canada;

c) He shall lead and coordinate the efforts of the Government of Canada to establish cooperative relationships with the provinces, business, labour and other public and private organizations, for the industrial development of the economy; and

d) In respect of research and policy development, he may:

i) initiate and coordinate research and policy studies,

ii) initiate proposals for new policies, programs and activities, and

iii) evaluate existing and proposed policies, programs and activities to ensure their consistency with federal industrial

> development policies and recommend changes therein."

3. Department of Regional Economic Expansion

The main objective of the Department of Regional Economic Expansion is to assist and encourage each region of Canada in realizing its economic and social potential. The department works to broaden regional and local economic bases, expand production and employment opportunities and assist particular areas in dealing with problems of economic growth and social adjustment.

This mandate is carried out through:

- General Development Agreements, which are federal-provincial agreements outlining a basic strategy for regional development in each province;

- Regional Development Incentives, which create opportunities for employment by encouraging business and industry to establish, expand or modernize their facilities in certain slow-growth areas of the country; and

- Other Programs, which provide assistance to areas requiring special measures.

When the Department of Regional Economic Expansion was established in 1969, it was given a broad mandate to bring together a number of predecessor agencies and programs, designed to cope with the problems associated with regional disparity, and to develop a comprehensive approach on regional economic development.

The Department gave new impetus to the programs it inherited, notably those concerned with rural development and social adjustment, and introduced major new programs placing an increased emphasis on federal support for public investment in infrastructure as a means of developing selected special areas. In addition, emphasis was placed on federal financial incentives as a means of encouraging capital investment to stimulate and preserve productive employment opportunities in areas designated as requiring special assistance.

In 1972-73, the Department undertook a major policy review resulting in a new framework for regional development policy emphasizing the pursuit of developmental opportunities affecting slow-growth areas by means of the co-ordinated use of relevant federal and provincial programs. The approach most frequently used for implementing the new strategy is generally through the General Development Agreements.

GENERAL DEVELOPMENT AGREEMENTS

Each part of Canada has its own set of development opportunities and problems. Clearly, the needs and priorities of one region, even within a province, are not necessarily the same as those of another.

Recognizing this, in 1974 the Department of Regional Economic Expansion and nine provincial governments entered into 10-year General Development Agreements to facilitate joint federal-provincial cooperation in initiatives undertaken in respect of economic and socioeconomic development. The Province of Prince Edward Island had, in 1969, already signed a 15-year Comprehensive Development Plan similar to the General Development Agreements. The Government of Canada also signed a General Development Agreement with the Government of the Yukon Territory in 1977, and with the Government of the Northwest Territories in 1979.

The General Development Agreement has become the principal instrument of the Department's regional development policy, not only in expenditure terms, but also as the primary means for coordinated planning and programming with the provinces in the search for viable economic development opportunities.

Each agreement outlines the broad objectives and opportunities for development in the particular province. The General Development Agreement does not state specifically what has to be done, nor the means of doing it. Rather, it sets out areas of opportunity and concern. In effect it is an enabling document, designed to permit the signing governments to get on with the job of identifying and furthering particular economic development projects.

Each General Development Agreement provides for specific subsidiary agreements. In these the program details are spelled out: the objectives, cost and means of implementation. Included also is provision for monitoring and evaluation to ensure consistency with the overall objectives of the General Development Agreement.

In the formulation of any subsidiary agreement the federal and provincial governments consider the impact and costs of such agreements, having regard to such analysis as may be deemed relevant and practical in respect of the following matters and such matters as may be agreed upon:

a) the extent to which it would directly create or maintain employment;

b) the extent to which it would support or encourage other activity which will create or maintain employment;

c) the extent to which it would broaden the range of economic opportunities (in the area, region or province affected);

d) the extent to which it would contribute to the stabilization of, or increase in, income levels (in the area, region or province affected);

e) the impact it would have on the distribution of population and the quality of life;

f) its effect on the environment;

g) the direct effect, whether short-term, long-term or continuing, it would have upon provincial or federal expenditures; and,

h) in the case of an industrial or commercial activity, the extent to which continuing subsidization may be required.

These subsidiary agreements are often co-signed, cost-shared, and co-managed by other federal departments in cooperation with the Department of Regional Economic Expansion and the provincial governments concerned. In almost all cases, other federal departments aid in drawing up the agreements and defining initiatives.

REGIONAL DEVELOPMENT INCENTIVES PROGRAM

The Department's second major development program is administered under both the Regional Development Incentives Act and the Department of Regional Economic Expansion Act. The purpose of the program is to stimulate and preserve production and employment opportunities in designated areas and to facilitate the implementation of selected opportunities identified under the General Development Agreements. The program provides financial assistance in the form of incentive grants and loan guarantees to business and industry willing to establish, expand or modernize their facilities in certain designated regions of the country. Regions designated for incentive assistance under the Regional Development Incentives Act currently include the four Atlantic provinces, Manitoba, Saskatchewan and the Yukon and Northwest Territories, together with most of the Province of Quebec and the northern portions of Ontario, Alberta and British Columbia.

Montreal Special Area

Effective July 1, 1977, Montreal, its satellite towns and a broad surrounding area were designated as a special area for the purpose of industrial incentives. The program was expanded, commencing April 1, 1980, and extended until March 31, 1984. This program is designed to offer incentives to businesses wanting to establish, expand or modernize within the Montreal Special Area. Industrial research and development projects are also eligible for incentives.

OTHER DREE PROGRAMS

Other DREE programs include those carried out under the Special Rural Development Agreements (Special ARDA agreements), the Prince Edward Island Comprehensive Development Plan and the Prairie Farm Rehabilitation Act. These programs, in the main, serve the needs of Canada's rural areas. They assist such traditional industries as farming, fishing and forestry and special projects providing assistance to Canada's Native peoples.

4. Employment and Immigration Commission/Department

Canada's unemployment rate continued to rise throughout the year 1977-78 (reaching a postwar high of 8.4 percent in the final two quarters) and placed increasing pressure on the Unemployment Insurance Program. This rise in the unemployment rate occurred despite robust employment growth throughout the year - which was attributable in part to the Government's stepped-up program of direct job creation and the stimulation of employment in the private sector. The unemployment rate rose because labour force growth exceeded employment growth. The total labour force participation rate rose continuously during the year to reach a postwar high of 62.0 percent in the final quarter.

A. Direct Job Creation

In the early 1970's direct job creation in the form of Local Initiatives Program and Opportunities for Youth sought to ease short-term seasonal unemployment. However, in 1976 a five year Employment Strategy was developed to provide a better planning framework for dealing with year-round unemployment. The 1977-78 fiscal year saw the phasing out of the Local Initiatives Program and the debut of Canada Works as the main element of the Employment Strategy. The Local Employment Assistance Program initiated in the autumn of 1972, continued as a program under the Strategy. As of 1979, youth designated programs included Young Canada Works, the Summer Job Corps Program and the Youth Job Corps Program. Brief descriptions of these programs are given below.

a) General Programs

i) Canada Works

This year-round program, introduced in 1977, is designed to create short-term jobs through the implementation of non-profit, community based projects. Established organizations, partnerships, corporations, and, in some circumstances, individuals or newly formed groups are eligible to apply. Proposals must demonstrate that the planned activity reflects the needs of the local labour force and will provide worthwhile services or facilities to the community.

During the 1977-78 fiscal year, about 52,350 jobs were created, involving some 78,525 participants in 6,860 projects; in the 1978-79 fiscal year, about 40,156 jobs where created, involving some 55,659 participants in 5,810 projects. The 1979-80 program was the final phase of Canada Works.

To allow some Canada Works funds to be used to create permanent private sector jobs, an Economic Growth Component has been established within the Canada Works Program which is not subject to the foregoing constraints inherent in the program such as the restriction against profit-making activities.

Economic Growth Component of Canada Works was first implemented in 1978-79 to create continuing incremental private sector employment and/or to support immediate job creation in activities contributing to increased economic growth. Under Economic Growth Component, federal Departments and Agencies were invited to propose projects or programs which stimulated private sector employment within their mandate. Funding levels for Economic Growth Component have been approved annually as part of the federal government's Employment Strategy. Funds are located in a Treasury Board vote. There will be no Economic Growth Component in 1980-81. In 1979-80, the Economic Growth Component budget was $20 million and 33 initiatives were recommended to the Treasury Board for their approval.

The Alternate Use of Canada Works Funds allowed for the identification and support of job creation projects which fall essentially within provincial spheres of responsibility and are supportive of longer term economic development. Authority to negotiate Agreements with the Provinces was provided by the First Ministers' Conference in February, 1978. All agreements are scheduled to end on March 31, 1982. Three agreements were signed while the Employment and Immigration Commission had the lead role: (1) Canada/Québec Infrastructure Sub-Agreement; (2) Canada/New Brunswick Forestry Subsidiary (Silvaculture Management) Agreement and, 3) Canada/Nova Scotia Forestry Subsidiary Agreement. In 1978-79, $2,537,822 were spent to create 312.5 work-years of employment. Responsibility for the lead federal role was transferred to the Department of Regional Economic Expansion in April, 1979.

ii) Local Employment Assistance Program

This program provides a measure towards finding solutions to the problem of growing numbers of chronically unemployed Canadians. It is a low profile program which, unlike Canada Works, initiates longer term projects that create employment opportunities for people who would likely remain unemployed despite normal labour market activity. Such individuals include persons chronically disadvantaged by structural unemployment as well as the mentally, physically or socially disadvantaged.

Since the inception of the Program in 1972, $144.9 million has been made available for the development of projects. In the fiscal year 1979-80, the national allocation was $49 million with the expected number of jobs to be created at over 4,000.

b) Youth Specific Job Creation Programs

i) Young Canada Works

Created in 1977, this is the main program aimed at job creating during the summer months for youth. The Young Canada Works program is designed to reduce student summer unemployment by developing employment generating projects in areas of community need. The jobs will develop employees' skills and work habits thereby facilitating their future access to the labour market and should relate to their career and educational aspirations.

Young Canada Works is organized along lines similar to the year-round Canada Works program with allocation of funds to constituencies where established organizations sponsor employment generating projects.

During the summer of 1979, it created jobs for 33,482 students in 13,168 projects with a $55.5 million fund.

ii) Summer Job Corps Program

In 1977 the federal government began the Summer Job Corps Program which afforded federal departments and agencies the opportunity to create short-term jobs that will provide young people, primarily students, with challenging work experiences for career and educational development.

Based on the experience gleaned from the 1977 Summer Job Corps Program certain refinements were made to improve the effectiveness of the 1978 Program. These included:

1. To stress the development of initiative, responsibility and managerial skills within Project Leaders and participants to ensure that their participation would be beneficial in their preparation for long-term employment.

2. To lower the salaries of Project Leaders and Assistants to avoid competition with the private sector while concomitantly keeping salaries at a level commensurate with the administrative responsibilities and accountability inherent in the position.

3. To encourage the interest and support of community groups and institutions with a view towards strengthening the link between government priorities and community needs and resources.

4. To provide more flexibility to departments and agencies for projects taking place on Indian reserves and in Northern areas.

The 1978 Program succeeded in attracting 20 departments and agencies and resulted in the creation of 6,413 jobs with a budget of $12,000,000. 1979 brought with it the introduction of a new Employment and Immigration Commission job creation initiative. The basic principles and philosophy underlying the new Youth Job Corps Program were similar to those of the previous Summer Job Corps Programs. The new Program had, as its objective, the expansion of employment opportunities for unemployed youth. Federal departments and agencies were again solicited to create jobs through projects complementing on-going government priorities and providing unemployed young people with the opportunity to obtain useful work experience. Wherever possible, the involvement of Third Parties was encouraged in order to contribute community expertise and support to the planning and implementation of activities. As with the Summer Job Corps, each project was administered by a Project Leader who was governed by a contribution arrangement with the sponsoring department/agency.

Given the essential similarities between the Summer Job Corps Program and the year-round Youth Job Corps Program, the Summer Job Corps Program was subsumed under the year-round Youth Job Corps Program. Accordingly, a single program called Youth Job Corps emerged incorporating two distinct components inherently defined by the target group they affected:

NON-STUDENT (YEAR-ROUND) PROJECTS

This component was geared exclusively to projects creating jobs for non-students. Eighteen departments/agencies participated and with a total available budget of $32,900,000, 6,193 jobs were created.

STUDENT (SUMMER) PROJECTS

This component was geared exclusively to projects creating jobs for students. Twenty-one departments/agencies participated and with a total available budget of $15,000,000, 7,114 summer jobs were created.

iii) Other Youth Oriented Programs

There was an expansion in Commission programs focussing on the employment problems of youth which comprise approximately 27 percent of the Canadian Labour Force and about one half of the Commission's total clientele.

Canada Employment Centres clients under the age of 25 now comprise 51.9 percent of the total number of trainees of the Canada Manpower Training Program and 49.4 percent of participants in the Industrial Training Program.

The number of Youth Employment Centres providing specialized counselling, testing, pre-employment orientation and other employment related services to youth in secondary schools and youth recently out of school increased from 17 to 20.

A National Youth Advisory Group consisting of representatives from key components in the Canadian private sector, notably youth, labour, commerce, industry, education and research has been formed to provide advice on youth employment, to heighten community awareness and to serve as a forum for the discussion of the youth employment problem and to contribute to future employment strategy for Canadian youth.

A Job Experience Training Program was introduced to provide recent school leavers unable to find work because of lack of work experience with a limited period of subsidized employment in the private sector. This program provides employers with an opportunity to assess their participants long term potential while participants gain practical work experience and the opportunity to launch a career.

A Co-operative Education Program was also launched joining federal and provincial initiatives in assisting youth to make the transition from school to the work world. Under this program projects sponsored by educational institutions place full-time secondary and post-secondary students in work settings in the private sector related to their courses of study. The federal government makes a financial contribution toward first year start-up costs of such projects.

In addition, an Interdepartmental Committee on Youth Employment representing 15 departments and agencies of the federal government was formed to establish and co-ordinate a new federal youth employment strategy and to sharpen focus on federal youth programs aimed at creating employment for youth permanently in the labour force as well as summer employment opportunities for students.

The former Student Summer Employment and Activities Program has been restructured and is now a component of the new Summer Youth Employment Program. The ten participating federal departments were allocated $96.2 million to create 60,000 direct summer jobs for students in addition to placing more than 250,000 young Canadians during the summer 1978 in jobs through a network of Canada Employment Centres for Students.

In addition to the two new programs, Young Canada Works and Summer Job Corps outlined earlier, a new wage subsidy program, Job Exploration by Students was also launched to provide new summer job opportunities for students in the private sector. This program was designed to give high school students in the 15 - 19 age group a chance to gain exposure to the work world during summer holidays so that they may be in a better position to decide whether they should stay in school and continue with their education or leave school and seek employment at their present educational level.

B. Other Programs and Services

There are some programs and services mentioned in the report on Convention 122 on Employment Policy, submitted to the International Labour Organization in 1976, which have not been specifically covered in this report as little new information is available despite significant progress in these on-going areas. For example, Manpower Services to Native People have expanded considerably as they have become known. Natives were appointed to work in Canada Employment Centres, others were hired through the Outreach Program; and, there are special projects underway to study the quality of service being rendered to Native people as well as the needs of the Native labour force. Special efforts continue to be made to improve the Commission's services as well as interdepartmental services to ex-inmates, handicapped job seekers, welfare recipients and older workers.

a) Services to Native People

In September 1976 a Native Employment Division was added to the Special Client Needs Branch in the Commission with a complement of a Director, three officers and a secretary. In the ten regions across Canada, a Native Employment Co-ordinator Office was also created with continuing recruitment of Native Employment Counsellors and Specialists in Canada Employment Centres where Native clientele exceed 10% of the total.

The use of all services of the Employment and Immigration Commission by Native people continues to expand as greater awareness is created through these avenues.

b) Outreach Program

The objective of the Outreach Program is to improve, with the help of community based agencies, the employability and employment of individuals who experience difficulties competing in the labour market and who are not able to benefit effectively from the services offered by their Canada Employment Centres. The essential purpose of Outreach is to complement regular employment related services by effectively extending them to such programs.

The following are Outreach target groups:

- residents of isolated or remote communities;

- Native people;

- chronically unemployed (usually welfare recipients);

- mentally and physically handicapped persons;

- inmates and ex-inmates;

- persons experiencing great difficulty in entering or re-entering the labour force;

- women and youth who fall within the above categories.

Any established organization, partnership or corporation, informal or formal community organization or other non-profit organization may be considered as a sponsor. Individuals or newly formed groups may also be considered in certain circumstances where the application of the general rule would impede achievement of program objectives.

Basically, the Program involves the provision of personnel or financial resources to support projects. During the fiscal year 1978-79, the Commission spent $9.8 million on 244 Outreach projects and so far in the 1979-80 fiscal year, 182 projects are being funded for a total budget of $6.7 million.

c) Women's Employment

From 1976-1978 the Commission articulated a new policy which has as its primary objective to actively promote the development of labour market conditions in which the economic potential of the female labour force is fully tapped and support women workers in their pursuit of economically viable and self-fulfilling employment.

The primary concern of the Women's Employment Strategy is to ensure that all the programs and services offered by the Commission meet the employment related needs of women. The

Women's Employment Division at National Headquarters and the Women's Employment Co-ordinators at each regional office assist all programs and elements of the service delivery system to devise and implement strategies relevant to the Commission's objectives regarding women and to develop an Affirmative Action program for female clients.

The Commission requires that Canadian Employment Centres personnel comply with the Unemployment Insurance Act of 1971 by refusing to fill discrimatory job orders.

It is departmental policy to actively encourage employers to hire and promote the advancement of women to positions consistent with their qualifications and abilities.

A well defined structure for the implementation of women's employment strategies has been developed wherein each program and service is asked to set specific objectives for improving its performance vis-ã-vis women's employment. A monitoring system is also being developed to assist in the evaluation of the progress made.

The Women's Employment Division at National Headquarters identifies major problem areas facing women in the labour market and strategies for mitigating the problems. The Division, in conjunction with Employment Programs, develops a yearly Plan of Action to improve the labour market position of women. The Division works also in conjunction with the Commission's Status of Women Committee, and the Interdepartmental Committee on Employment Development to develop long term employment strategies for women.

The Regional Women's Employment Co-ordinators promote equal employment opportunities for women through the delivery at the service level. They work with employment personnel to devise ways of increasing the number of female clients in training in the full range of occupations, particularly in training for jobs traditionally occupied by men. Moreover, they direct their efforts toward employer groups to make them aware of the potential that is in the female labour force and to women themselves to inform them of the opportunities that are theirs.

The co-ordination of employment policies with related activities in the area of economic development is promoted by close liaison between appropriate federal departments and agencies at the headquarters and field levels, by federal-provincial government consultation and co-operation, and by the research and evaluation activities within the departments themselves.

d) Affirmative Action Programs

The Affirmative Action Division has responsibility for two programs, the Affirmative Action Strategy and the Federal Contracts Program. The objective of the programs is to promote the concept of Affirmative Action to the private sector and Crown corporations through the provision of a specialized technical consultative service. In addition initiatives by the private sector are supported by a whole range of Commission programs and services.

Affirmative Action is a comprehensive, result-oriented plan adopted by an employer as a remedy for employment discrimination with special emphasis on systemic discrimination. A comprehensive plan is an action strategy designed to ensure equality of opportunity at all employment levels and to provide for the implementation of those special measures necessary to ensure equality of results given the specific conditions existing in a company. Systemic discrimination results when despite the equal application of an employment practice there is a disparate impact on certain groups of workers and this impact cannot be related to job performance or the safe and efficient operation of business. The measure of successful implementation of an Affirmative Action plan is the achievement of goals expressed as changes in the composition at all levels of the company's labour force.

The Affirmative Action Division, in co-operation and co-ordination with the Canadian Human Rights Commission as well as other involved public agencies, promotes the concept of Affirmative Action to the private sector. Eighteen regionally based consultants assist companies in the examination of their employment systems for policies and practices which have a disparate impact on women and minorities and to develop comprehensive Affirmative Action programs to substitute for systems having lesser or no adverse impact.

The Affirmative Action Strategy is directed to the private sector and Crown corporations. It is targeted for Women, Natives, the physically disabled and, where applicable, a regionally designated group. The Federal Contracts Program covers employers with Canadian government contracts. Currently it is targeted for women only.

5. Department of Agriculture

A major piece of Canadian agriculture legislation is the Agricultural Stabilization Act. The general principle underlying commodity price support legislation is to protect producer returns from severe price declines while permitting the market system to determine commodity prices. The Act is administered by the Agricultural Stabilization Board. Under the terms of the Act, the following commodities are supported at not less than 90% of their average price over the previous 5 years, with adjustments according to production costs: cattle, hogs and sheep; industrial milk and cream; as well as oats and barley not produced in the area designated in the Canadian Wheat Board Act. Other commodities may be supported at a price determined by the Governor in Council for periods prescribed by Council. The Agricultural Stabilization Board supports prices by buying products outright at prescribed prices, by granting deficiency payments or by making direct payments to producers at a fixed rate.

The Department of Agriculture administers the Crop Insurance Act as well as emergency crop loss assistance programs. The Farm Credit Corporation, a crown agency, makes long-term mortgage loans to assist farmers in organizing viable farm businesses.

6. Department of Indian Affairs and Northern Development

There are no legal barriers to Canadian Indians, as such, choosing or accepting employment in Canada. There are certain non legal factors that cause unemployment among Indian people to be higher than the national average: the isolation of many Indian reserves from urban centres due to their traditional settlement patterns; the desire of many Indian people to remain on their reserves; the lack until recently of necessary education, training and work experience.

To overcome these problems very considerable efforts and sums of money have, for a number of years, been expended by departments of the federal government and by provincial governments on such programs as education, economic development, vocational training and job creation. These efforts are continuing.

> (3) "measures to ensure the best possible organization of the employment market, with particular reference to manpower planning procedures, the collection and analysis of employment statistics and the organization of an employment service;"

a) Organization of the Employment Market

When appropriate, interdepartmental committees are set up at the headquarters level to ensure co-ordination across inter-related policy areas. At the regional office and field levels, the federal-provincial Manpower Needs Committees, comprising representatives of various federal and provincial governments' departments, have been strengthened considerably in recent years and have been asked to establish effective mechanisms for consultation with employers, professions, unions and public agencies. These committees constitute a major means for intergovernmental consultation on manpower matters.

Within the Canada Employment and Immigration Commission/Department, considerable effort is devoted to analysis and forecasting activities, to the evaluation of existing programs and the development of new ones. To this end, a Strategic Policy and Planning Group was formed, whose basic role is to examine policies and programs in relation to the outside environment so as to test their effectiveness in meeting the objectives of the Commission and to recommend changes where appropriate. In keeping with the strategic nature of the Group's role, its activities stress an anticipatory look at changes in the social, economic and political environment.

The Strategic Policy and Planning Group consists of a number of branches concerned with research, analysis and forecasting activities as well as the evaluation of existing programs and the development of new ones.

Some federal departments concern themselves with the forecasting of impacts upon the level and type of employment which are likely to be brought about by the deployment of technological innovations. For example, the Women's Bureau at Labour Canada, and the Women's Division in Employment and Immigration Canada are examining the issues of technological change and its impact on the employment opportunities of women. Another good case in point are studies engaged in by the Department of Communications and the OECD with a view to determining in advance future employment consequences of the information or computer/communications revolution.

b) Organization of an Employment Service

Since 1947 Canada has operated a National Employment Service designed to match individuals and jobs. The Service operates through offices of the Employment and Immigration Commission located across the country.

The Commission operates 252 main employment centres, 196 branch offices, over 80 employment centres on Campus, 45 seasonal offices, 166 itinerant points of service, five training employment centres and, during the summer months, about 300 employment centres for students. Many employment centres are now equipped with a Job Information Centre in which job-ready workers can make occupational and job choices from openly displayed job cards or listings and then contact a counsellor when they have found a job that interests them. This system best serves the majority of workers who need only information about job vacancies and employment conditions.

During the fiscal year 1977-78, over 4.5 million registrations or re-registrations for employment were processed in local offices of the Commission, an increase of about 2 per cent from 1976-77.

Through the active promotion of services and continued efforts to respond more quickly and effectively to employers' needs, the number of job vacancies listed in offices of the Commission totalled 1,157,477 in 1977-78. A total of 3,237,000 job referrals related to these job orders were made, resulting in over 880,000 placements of workers in employment exceeding one week's duration and over 179,000 placements in casual employment of shorter duration.

To assist in their placement and counselling activities, the Canada Employment Centres made increasing use of semi-automated and automated systems. Some are being used on a regular and permanent basis, others are still at the experimental stage.

(4) "technical and vocational guidance and training programmes;"

a) Canada Manpower Training Program

The Canada Manpower Training Program plays a key role in developing Canada's labour force to meet the needs of the economy by providing opportunities for adult workers to increase their earnings and employability through occupational training. Efforts to reduce higher level skill shortages through training increased during recent years with a particular emphasis on trades occupations. The Canada Employment and Immigration Commission spent $591.1 million on institutional and industrial training under that program in 1977-78 and $637.4 million in 1978-79. This provided for the enrollment of 299,000 and 286,000 adults respectively.

The Adult Occupational Training Act provides for the federal government to purchase training on behalf of individuals in courses given by provincial institutions. Provision is also made for income support for trainees while on course. The selection of the occupations involved and the volume of training required are planned jointly by the federal and provincial governments each year. In the case of industrial training the federal government provides financial assistance to employers by means of trainee wage subsidies and reimbursement of other eligible training costs.

Manpower training efforts in Canada are divided between institutional and industrial training.

i) Institutional Training

Institutional training encompasses essentially five types of training including Skill Training, Theoretical (classroom) Instruction for Apprenticeship, Language Training and Basic Training for Skill Development which offers adult academic upgrading where required to proceed to skill training. Other upgrading offered includes Adjustment Training for special needs clients.

In 1978-79 Occupational Skill Training and Apprenticeship Training continued to attract the majority of Canada Manpower Training Program's full-time institutional trainees with 40.1 percent availing themselves of the former and 31.7 percent of the latter. In 1978-79, 207,558 trainees started training with 78.1 percent in full-time training.

ii) Industrial Training

A total of 78,936 workers commenced training under this Program in 1978-79, of whom 49.4 percent were unemployed, 41.3 percent were employed, 0.8 percent had their employment threatened and 8.5 percent were considered as special needs clients. More than 41,533 contracts for training were negotiated between employers and the Canada Employment and Immigration Commission with an average contracted training duration of 57 days per trainee. The contracted value was $112,281,000.

b) Counselling Service

During this period, employment counselling has been subjected to close scrutiny. There was an obvious need to improve its effectiveness and efficiency in order to facilitate the attainment of clients' goals, i.e. placement into satisfactory employment. To achieve this, papers were developed which spell out the direction that employment counselling will take in the Commission and policies were established accordingly.

A number of concrete measures were also taken to ensure the provision of a higher level of service to the clientele of the Commission. A training program has been developed on the interpretation of tests used; counsellors who succeed on this course will receive a certificate of competency in this field and will be allowed to use tests in their work with clients. In addition, counselling tools have been developed or improved to assist counsellors perform their functions competently: the Canadian Classification and Dictionary of Occupations is being updated and published in a different format; a computer-assisted counselling tool called CHOICES has been developed and piloted, and new Careers Canada and Careers Provinces booklets have been published; an interest inventory developed in the Commission has been approved and officially introduced in the employment centres for the benefit of clients. This inventory is called the Canadian Occupational Interest Inventory.

Two new programs, the Co-operative Education Program and the Job Experience Training Program have been initiated to supplement the programs already described.

c) Co-operative Education Program

The objective of the Co-operative Education Program is to encourage and assist the development and expansion of co-operative education and work experience programs in order to more effectively facilitate the transition of young people from school and their integration into the labour force.

d) Job Experience Training Program

The Job Experience Training Program is designed to provide potential secondary school dropouts with the opportunity, based on exposure to the employment market, to make an informed and realistic career decision whether to continue with the in-school education process or to enter the labour market on a permanent basis. Potential dropouts are identified as those students who, in the opinion of school authorities, may not complete their formal education and are most likely to have difficulty in obtaining and keeping employment. The Job Experience Training Program is delivered by an Administrative Board responsible to the general membership of a sponsoring Chamber of Commerce or Board of Trade. The program consists of these components: The Summer (1977) Program and the Winter Program.

i) The Summer Program

This program subsidized 50 percent of student salaries up to $500 per participant for a maximum of 9 weeks appropriate summer work experience. Students were paid by the employer during the period of employment at the going rate for the work performed and no less than the minimum provincial wage. The $2.1 million program provided summer work experience for 3,925 students in 1978.

ii) The Winter Program

The winter component placed selected recent school-leavers who had not been able to secure work with participating - employers for a period up to 9 weeks of employment as the basis for forming a more permanent attachment to the labour force.

Each project was intended to run three cycles, consisting of a projected 50 participants on each intake or 150 participants total from October 1977 to May 1978. Each cycle provided a 2 day pre-employment orientation course and up to 9 weeks of work experience aimed at providing employers with the opportunity to assess potential permanent employees first hand.

The original budget for the winter program was $5 million and the number of participants originally planned was 6,000.

Other programs of the Employment and Immigration Commission related to Article 6 in general

a) Canada Manpower Mobility Program

This Program is designed to resolve labour shortages and optimizes the use of manpower resources in Canada by encouraging the geographical mobility of unemployed, about to become unemployed or underemployed workers whose skills are not needed in their locality to enable them to take suitable jobs in other parts of the country.

Assistance is provided in the form of financial grants to enable the worker to travel to seek suitable continuing employment, travel to temporary employment, relocate, take occupational training or take advantage of manpower services which are not available in the worker's home area.

During the period between June 30, 1976 to June 30, 1978, approximately $17,403,968 was spent to assist workers under the Mobility Program. This expenditure aided in the relocation of 20,000 workers and their dependants and provided exploratory grants to 33,874 workers to seek employment. In addition, 5,988 workers were given special travel grants, 43,828 workers and 1,085 students received travel grants to temporary employment. A total of 104,775 persons received financial assistance under the Mobility Program.

b) Employment Tax Credit Program

The Employment Tax Credit Program which was introduced on 8th March 1978 is designed to stimulate employment in the private sector of the economy. The program provides a tax credit to employers who create and fill new jobs which are additional to their normal work force, and which would not have been created without the support provided by the program.

Almost all businesses are eligible to participate in the program. Exceptions are temporary help agencies and employers who have been in existence for less than 12 months. Employers receive a tax credit at the rate of $1.50, $1.75 or $2.00 per hour depending on the geographic area of Canada in which the new job is initially located. The credit may be claimed for up to 40 hours per week for each eligible worker for a maximum period of 9 months.

The tax credit is deductible from federal income tax otherwise payable. It is, however, also taxable and an equivalent amount must be added to the employers' taxable income.

The jobs created must last for 3 months or more, be full time (not less than 35 hours per week) and pay at least the provincial minimum wage rate or $0.25 more per hour than the applicable tax credit rate if the job is not subject to minimum wage legislation.

The workers who are employed must have been both unemployed and registered with a Canada Employment Centre as actively seeking work for eight weeks or more.

Across Canada it is estimated that employers will create close to 50,000 jobs each year as a result of the program. The program will run until 31st March 1980. At any time up to that date an employer may enter into an agreement and obtain the tax advantage offered.

(5) "Protection against arbitrary termination of employment"

Part III of the Canada Labour Code, provides that an employer must give two weeks notice in writing of the intention to terminate the employment of an employee who has completed three consecutive months of continuous employment. Two weeks wages at the regular rate for regular hours of work may be paid in lieu of notice.

Provisions respecting unjust dismissal were contained in the 1978 revision of the Canada Labour Code and became effective September 1, 1978. An employee who has completed twelve consecutive months of continuous employment with an employer, and who is not subject to a collective agreement may make a written complaint to an inspector if he has been dismissed and considers the dismissal to be unfair. Complaints will not be considered when the employee has been laid off because of lack of work or discontinuance of a function or when redress is available elsewhere under this Act or any other Act of Parliament. The employee or the inspector may request the employer to provide a statement giving reasons for the dismissal. This statement must be provided within fifteen days after the request. The inspector will attempt to settle the complaint. However, if this is not done within a reasonable time the inspector on the written request of the complainant may report this to the Minister of Labour and provide relevant documentation. The Minister may then refer the case to an adjudicator. If the adjudicator decides that the person has been unjustly dismissed, he may require the employer to pay compensation, to reinstate the employee or to otherwise remedy or counteract the consequences of the dismissal. The order of an adjudicator is final and cannot be reviewed in any court.

It should be noted also that under the Canada Labour Code no employer may dismiss or lay off an employee solely because she is pregnant or has applied for maternity leave as provided in the Code.

Division V.2 of the Canada Labour Code contains provisions relating to group termination of employment. In brief, an employer is required to give eight weeks notice to the Minister of Labour when the group whose employment is to be terminated does not exceed one hundred, twelve weeks if the group exceeds one hundred, and sixteen weeks if it exceeds three hundred. Notification must also be provided to the unions involved and to the Canada Employment and Immigration Commission. Employers and unions are required to cooperate with the Commission to facilitate the re-employment of the employees concerned.

The Canadian Human Rights Act also offers protection against arbitrary termination of employment. Section 7 provides that it is a discriminatory practice, directly or indirectly to refuse to continue to employ any individual on a prohibited ground of discrimination, as listed above.

(6) "Protection against unemployment"

Canada started an unemployment insurance coverage plan in 1945. At that time, only a small number of workers were covered. This scheme became universal in 1971 and since has offered various kinds of benefits and provided immediate and direct protection against unemployment. Unemployment Insurance benefits are described later in the report under Article 9.

C. "Statistical information on the level of employment and extent of unemployment and underemployment in the country;"

Statistics on employment, unemployment, and other labour force activities are collected by the Statistics Canada Labour Force Survey. It is a monthly sample survey of approximately 55,000 households, which measures employment and unemployment among the civilian population of 15 years of age and over in the ten provinces.

The survey was first conducted in the postwar period of the late 1940s, an era that saw the birth of various economic statistics in Canada. It began as a quarterly survey, becoming monthly in 1952. Major redesigns took place in 1963 and 1975.

In the survey, employed persons are defined as workers who hold a job to which they can report during the one-week survey period. Persons are unemployed if they do not hold a job, but are actively seeking one.

The Canadian labour force has grown at a very rapid rate in recent years, averaging 3.2% annually between 1966 and 1978. This is substantially above the growth rate of other industrialized countries. The growth is caused primarily by a large number of young people entering the labour force, and a rapid rise in the number of working women. The proportion of women in the labour force rose from 35.4% in 1966 to 47.8% in 1978.

Canada currently has a high rate of unemployment by historical standards, at 8.4% in 1978. But employment is also increasing along with unemployment. The proportion of the population employed increased from 54.5% in 1971 to 57.4% in 1978. This apparent contradiction of experiencing both increasing employment and unemployment simultaneously is a result of the rapid labour force growth.

An appendix to this report contains a table of statistics on these subjects.

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

A. "Remuneration"

In federal jurisdiction the principal legislation governing remuneration is the Canada Labour Code, the Fair Wages and Hours of Labour Act and the Canadian Human Rights Act.

Division II of Part III of the Canada Labour Code empowers the Governor in Council to fix the federal hourly minimum wage. In the case of wages computed and paid on a basis other than time or on a combined basis of time and some other basis, the Minister of Labour may fix a standard basis of work and a minimum wage that is considered the equivalent of the general federal minimum wage. Special provisions apply to persons under seventeen years of age and to the handicapped. The former may be employed in work not specifically prohibited by the Regulations which also prescribe conditions and wages. To enable the gainful employment of handicapped persons, the Minister may authorize their employment at less than the minimum wage if it is considered in the interests of the individuals involved.*

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* Prisoners in Canada, with the exception of some few working on industrial contracts, are not paid in accordance with the minimum wage provisions. Although the Parliamentary Sub-Committee on the Penitenciary System in Canada recommended that inmates be paid sufficiently to meet the costs of their own maintenance, contributions to the Unemployment Insurance Fund, the Canada Pension Plan and income tax, and contribute towards the maintenance of their families, it was determined that the complexities and cost of doing this, in both financial and person-year terms, would be prohibitive. Therefore, the Correctional Services of Canada has developed a schedule of pay rates equating to the balance had the above deductions been made.

The following are federal minimum wage rates per hour from 1970 to 1980:

1970	1971	1972	1974	1975	1976-80*
$1.65	$1.75	$1.90	$2.20	$2.50	$2.90

Maximum amounts for deductions for meals and lodging provided by the employer are set out in the Labour Standards Regulations. Additional details about wages will be found in reports to the International Labour Organization under Convention 26, Minimum Wage Fixing Machinery Convention.

The Canada Labour Code provides that an employer must pay wages on a regular pay day of the employee as established by the employer's practice. If an employee cannot be located, the wages may be paid to the Minister of Labour not later than six months after they are payable. These payments are held in a suspense account until claimed.

The Bankruptcy Act, R.S.C. 1970, c B-3, gives certain priority to claims for wages in case of bankruptcy of an employer. Section 107 of the Act provides that the proceeds realized from the property of a bankrupt shall be applied, first to administrative and legal costs of the bankruptcy and then to wages, salaries, commissions or compensation of any clerk, servant, travelling salesman, labourer or workman for services rendered during three months next preceding the bankruptcy to the extent of five hundred dollars in each case; together with in the case of a travelling salesman, disbursements properly incurred by him in and about the bankrupt's business, to the extent of an additional three hundred dollars in each case, during the same period. In the case of a deceased bankrupt, priority must be given to payment of reasonable funeral and legal testamentary expenses.

Under the terms of the Canadian Human Rights Act, it is a discriminatory practice for an employer to establish or maintain differences in wages between female and male employees in the same establishment who are performing work of equal value. Criteria to be used in assessing the value of work are skill, effort and responsibility required in its performance and the conditions under which it is carried out. The Human Rights Commission has been studying the implications of the equal pay provisions and set up a task force which included representatives of employers, unions, and women's groups. Copies of the report of the task force and of the Canadian Human Rights Act have been forwarded to the International Labour Organization with the 1978 Report on Convention 100, Equal Remuneration. On September 18, 1978 the Commission enacted Equal Wages Guidelines.

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* Federal minimum wage will increase to $3.25 per hour (effective December 1, . 1980) and to $3.50 per hour (effective May 1, 1981).

The Canada Labour Code continues to carry a provision pertaining to equal pay which permits inspectors who suspect that an employer is engaging in discriminatory practice to notify the Human Rights Commission or to file a complaint under the Canadian Human Rights Act.

The Women's Bureau of the Department of Labour analyses data on the participation of women in the labour market. These data appear in the publication "Women in the Labour Force: Facts and Figures". A copy of the 1977 edition has been submitted to the Secretary-General with this report.

The Women's Bureau has shown by its studies that the gap between the salaries earned by women and by men has widened in recent years. For instance, whereas in 1972 the average annual salaries of women and of men were $5,166 and $9,455 respectively, they were $9,143 and $15,818 respectively in 1977. Although average salaries increased in both cases, salaries of men increased more sharply and the gap between the two averages increased by $2,386 in absolute terms between 1972 and 1977. As a percentage, the gap was 54.6 per cent in 1972 and 57.8 per cent in 1977.

The differences in earnings of women and men are attributable to a variety of factors including: concentration of women in low-paying jobs and at the lower levels of occupational categories; shorter periods spent in the labour force; more part-time work being performed by women, and the effect of across-the-board percentage wage increases which result in smaller gains for workers at the lower levels of salary scales.

Appendix I to this report contains a statistical table on rates of remuneration for men and women.

The Fair Wages and Hours of Labour Act applies to contracts made on behalf of the Government of Canada for the construction or remodelling of public buildings of all kinds, railways, canals, roads, bridges, locks, dry docks, elevators, harbours and other works for the improvement and safety of transportation and navigation, works of defence, facilities for the transmission of timber and all other works and properties constructed or remodelled for the Government of Canada. The Department of Labour prepares schedules of wage rates generally accepted as current for competent workers of the types required in the district in which the work is to be performed. Contractors are required to post fair wages provisions and ministerial authorization for working hours in excess of eight hours a day or 48 hours in a week.

Contracts must contain non-discrimination clauses to the effect that the contractor will not refuse to employ and will not discriminate against any person because of race, national origin, colour, religion, sex, marital status, or because an individual has made a complaint or given information about an alleged failure to comply with these provisions. In cases of non-compliance the Minister of Labour or a designated person decides the question for the purpose of the contract. Failure to comply constitutes a material breach of the contract.

Persons employed by a contractor must be residents of Canada unless the Minister is of the opinion that Canadian labour is not available or that special circumstances exist which make it contrary to public interest to enforce this provision.

The preamble to Part V of the Canada Labour Code recognizes the principle of free collective bargaining as the basis of effective industrial relations for the determination of good working conditions and sound labour management relations. Workers and employers may enter into collective agreements defined as agreements in writing between an employer and bargaining agent and containing provisions respecting terms and conditions of employment and related matters.

Legislation fixes the floor for the determination of wages, and the collective bargaining process or unilateral action by management takes over from there. Collective agreements may contain a variety of provisions which provide remuneration other than regular wages. These include wage incentives for individual productivity, productivity plans which result in bonuses being paid for group achievement, profit-sharing, cost-of-living provisions, contributions for medical, surgical and/or hospital coverage, educational assistance, vacation bonus, life and accident insurance, and provision of clothing, tools, or safety equipment at no cost to the employee or at partial cost.

Although the minimum wage prescribed by law may not provide for all the needs of an average family, other benefits such as federal family allowances are provided. Under Article 9 of the Covenant we will discuss various measures adopted which may supplement the income of people with low remuneration. It could be noted here that the Income Tax Act alleviates the income tax burden for people with lower income. It also provides for decreasing income tax to be paid by people with family responsibilities, depending on the family size and the amount of income of the family.

> "Statistical data showing the evolution of levels of remuneration... and of the cost of living".

Statistics Canada conducts a monthly Employment and Payrolls Survey to measure employment, earnings and hours of work among industrial workers. All establishments with twenty or more employees are surveyed. The data are published for salaried employees and wage earners separately, by type of industry.

The cost of living in Canada is measured by the Consumer Price Index, a monthly statistical series reflecting the variations in prices paid by consumers for a great variety of goods and services. Price information is collected in over 50 urban centres, and covers some 650 items in areas such as housing, food, clothing, transportation, etc.

The consumer price index is often used as one measure of inflation. In Canada, it was increasing at between 2% and 5% annually during the 1960s, increasing to the 7% to 11% range in the mid-1970s. It rose 9.0% in 1978. The price index increased from 100.0 in 1971 to 160.8 in 1977, indicating that prices for Canadian consumers had risen 60.8%. During the same period, average weekly earnings in industry (as measured by the industrial composite) increased 81.6%, from an average $137.64 per week in 1971 to $249.95 in 1977.

An Appendix to this report contains tables of statistics on these subjects.

B. "Safe and healthy working conditions"

Part IV of the Canada Labour Code, Safety of Employees administered by the Occupational Safety and Health Branch of the Canada Department of Labour applies, subject to any other act of the Parliament of Canada, to employment in the operation of industries and business under federal jurisdiction and in certain Crown corporations.

It applies to employers and employees in undertakings connecting one province with another province or another country, or enterprises wholly in one province that have been declared by Parliament to be "for the general advantage of Canada or for the advantage of two or more provinces". Part IV also applies to federal Crown corporations engaged in production, trading, or service operations of a commercial or industrial nature. This part of the Code does not apply to works of a private or local nature in the Yukon or Northwest Territories, nor in respect of work in connection with the operation of ships, trains or aircraft. In the case of transport, there are safety regulations under the Canada Shipping, Railway and Aeronautics Acts. Although it does not apply directly to the federal public service, the Government as a matter of policy ensures the application in the public service of the principles set out in Part IV of the Canada Labour Code.

The Code establishes basic principles, indicates the general scope and method of its application and imposes general obligations on both employers and employees. These include meeting realistic performance standards as required through regulations. The Canada Employment Safety and Health Regulations are based on good industrial safety practice. They were developed in cooperation with labour and management and in consultation with accident prevention and other specialists. The regulations cover areas such as machine guarding, accident investigation and reporting, dangerous substances, materials handling, sanitation, noise control, illumination, protective equipment, first aid, hand tools, building safety, temporary work structures, fire safety, elevating devices, electrical safety, boiler and pressure vessels, uranium mining and safety committees. These regulations, based on proven principles of good accident prevention, generally prescribe performance criteria as opposed to detailed specifications and procedures. In so far as is practicable the regulations incorporate national consensus standards and codes of practice regarded as conforming to good industrial safety practice. The regulations have the force of law and require the employer to meet realistic safety performance criteria.

The full potential of the safety and health provisions under the Canada Labour Code can be realized only with the commitment and collaboration of employers, employees and unions. Employers subject to the Code must ensure the safety and health of all employees while at work and adopt reasonable measures to prevent or reduce the risk of employment injury. Employees must take all reasonable precautions to ensure their own personal safety and that of fellow employees. Employees must use special safety devices, clothing, or equipment intended for their protection as specified in the regulations.

In the development of the legislation, the Department of Labour consulted with federal and provincial governments' departments, federal enterprises, organized labour and other involved groups. The Minister of Labour may establish consultative and advisory committees on which employers and employees are represented to advise on matters arising in the administration of Part IV of the Code, assist in establishing reasonable safety standards and recommend regulations respecting safety in employment. The Minister may order necessary inquiries, designate safety officers or enter into agreements with provincial authorities respecting the designation of provincial officials to act as safety officers for the purposes of Part IV of the Canada Labour Code. The latter may carry out regular inspection and related functions of enforcement under the Code. The Minister of Labour may undertake research respecting employment injury, and undertake programs to reduce or prevent it. These measures may be carried out in cooperation with federal and provincial departments or agencies and with organizations. The Minister may also promote the formation of joint labour and management safety and health committees in the workplace, assisted by technical and other advisors from Labour Canada. The Occupational Safety and Health Branch of the Department of Labour provides professional technical competence in the field of safety and health engineering, program development, occupational medicine, education and compensation for occupational injury. In addition to its responsibilities under Part IV of the Canada Labour Code, the Branch has responsibilities with respect to the Merchant Seamen Compensation Act, the Federal Inmates Compensation Scheme and the Government Employees Compensation Scheme.

Safety officers appointed under the Code must notify employers of sources of danger to employees and give notice in writing directing that measures be taken within a specified time to guard the source of danger and protect persons from it. If necessary the safety officer may direct that the place, matter or thing not be used until his directions are complied with. Notices of danger are posted by the officer and may not be removed until authorized by him or the Canada Labour Relations Board. When carrying out regular inspections, the safety officer may issue directions respecting any matter coming within the regulations and require that his directions be carried out within a specified time frame. The employer has a right of appeal to the regional safety officer. Employees may lodge a complaint with the Canada Labour Relations Board about any contravention of Part IV, or the regulations, failure to comply with the directions of a safety officer, or discharge or threat to discharge, or other discriminatory action against a person who has testified in proceedings or given information regarding work conditions affecting the safety or health of that individual or of fellow employees. Complaints may also be lodged about failure to provide safety and health committees with information requested, or for penalizing or threatening a person who refused to work in the face of imminent danger. An employer guilty of an offence is liable on summary conviction to a fine not exceeding five thousand dollars, or to imprisonment of up to one year or both.

The clause relating to refusal to work, mentioned above, came into force on September 1, 1978. It provides that, when an employee has reasonable cause to believe that the use of a machine, device or thing would constitute an imminent danger to the safety or health of him or herself or another employee or that a condition constitutes an imminent danger to safety or health, the employee may refuse to use or operate the machine, device, or thing or to work in the place. The circumstances must be reported to the employer who must investigate it in the presence of the employee, at least one non-managerial member of the safety and health committee, if any, and a person authorized by the union representing the employee. Where there is no committee and the employee has no union representative, the employee may select one person to be present. If an employee continues to refuse to work and there is a dispute or refuses to work after steps have been taken to rectify the situation, a safety officer is called in to investigate the matter. If the safety officer decides there is imminent danger, the employee may continue to refuse to work until the situation is remedied. If the safety officer decides there is no imminent danger the employee has no right to refuse to work but may request the safety officer to refer the decision to the Canada Labour Relations Board. The Board will either confirm the decision or give any direction it considers appropriate with respect to the dangerous situation. Any direction given must be posted until its removal is authorized by the safety officer or the Board.

The Canadian Centre for Occupational Health and Safety Act came into force on October 1, 1978. The Act promotes the fundamental right of Canadians to a healthy and safe working environment by creating a national institute concerned with the study, encouragement, and cooperative advancement of occupational safety and health, the governing body of which will represent the interests and concerns of workers, trade unions, employers, federal, provincial and territorial authorities, professional and scientific communities and the general public. The Centre will report to Parliament through the Minister of Labour. Preparatory work for the establishment of the Centre has been carried out and a Chairman appointed for its Council of Governors.

Statistics on work injuries and their associated costs are prepared by the Occupational Safety and Health Branch of Labour Canada. Tables of these statistics are contained in an appendix to this report.

C. "Equal opportunity for promotion"

Section 10 of the Canadian Human Rights Act makes it a discriminatory practice for an employer or an employee organization to establish or pursue policies or practices or enter into agreements affecting recruitment, referral, hiring, promotion, training, apprenticeship, transfer or any other matter relating to employment or prospective employment, that would deprive an individual or class of individuals of any employment opportunity on a prohibited ground of discrimination.

Section 15 permits the adoption of special programs designed to prevent, eliminate or reduce disadvantages suffered by individuals based on race, religion, colour, national or ethnic origin, age, sex, marital status or physical handicap, by improving opportunities relating to employment. Since the Canadian Human Rights Act is binding on Her Majesty in right of Canada the above provisions also apply to the federal public service.

D. "Rest, leisure, limitation of working hours and holidays with pay"

Part III of the Canada Labour Code (Labour Standards) also covers such matters as hours of work, vacations with pay, paid public holidays, overtime, maternity leave and bereavement leave.

In general the Code limits standard working hours to eight per day, forty per week, with an additional eight hours permitted to be worked in a week as overtime and paid at an overtime rate of at least time and one half of regular wages. Where required by the nature of the work, hours of work may be averaged over a period of two or more weeks in conformity with the standards. Hours in excess of forty-eight per week may be worked only in exceptional circumstances for a limited time when the Minister of Labour has issued the necessary permit. Additional hours may also be worked in emergencies. Employees are to be paid for overtime at a rate of wages not less than one and one-half times the regular rate of pay.

Hours of work are to be scheduled to provide one day of rest per week and wherever possible this day is to be Sunday. Employees are entitled to nine general holidays per year: New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day and Boxing Day or any day substituted for any such holiday. Should an employee employed in a continuous operation work on a paid holiday, the rate of pay for that day is to be at least two and a half times the regular rate, or a paid holiday is to be scheduled at some other time.

Employees are generally entitled to two weeks vacation with pay and, after six consecutive years of employment with one employer, at least three weeks of paid vacation.

Part III of the Code also includes provisions respecting maternity leave. Every employee who has completed at least twelve months of continuous employment is entitled to a period of seventeen weeks maternity leave. This period is flexible and must not end later than seventeen weeks after the confinement. On resumption of employment, the employee is to be reinstated in the position occupied at the time leave commenced or in a comparable position with not less than the same wages and benefits. For pension and other benefits employment is to be deemed continuous. No employer may dismiss or lay off an employee solely because she is pregnant or has applied for maternity leave.

The regular reports to the International Labour Organization on the Hours of Work (Industry) Convention 1919 and the Weekly Rest (Industry) Convention 1921 provide information related to the above subjects.

ARTICLE 8: TRADE UNION RIGHTS

A. "Principal laws"

Part V of the Canada Labour Code, Industrial Relations, governs collective bargaining for enterprises which come within federal jurisdiction. The Public Service Staff Relations Act forms the basis for collective bargaining for federal public servants (this will be discussed later under the section on the Public Service). The majority of Canadian workers, however, come within the legislative authority of the provinces which have legislation ensuring the rights of workers to join a union. In both federal and provincial jurisdictions, specific procedures are set out for the certification and recognition of a particular trade union as the bargaining representative for employees in a particular establishment.

B. "Right to form and join trade unions"

Section 110 of Part V of the Canada Labour Code states that every employee is free to join the trade union of his choice and participate in its lawful activities. However, the definition of an employee under section 107 of the Code excludes persons who perform management functions or who are employed in a confidential capacity in matters relating to industrial relations. Similiarly, it gives employers the freedom to join employers' organizations and to participate in their lawful activities.

In 1978 some 3,278,000 Canadian workers were unionized, approximately 31.3% of the total civilian labour force.

In Canada the type of union-management relationship in most situations determines whether or not an individual must join a particular union. Basically there are five types of such contractual arrangements:

1. Non-union shop: There is no recognized employee organization.

2. Open shop: There is a recognized union, but individual employees have the choice of joining or not joining it.

3. Rand formula shop: All employees in the bargaining unit covered by the collective agreement have the amount of their union dues deducted from or "checked-off" their wages, but the individual employee is not compelled to join the union.

4. Union shop: All employees covered by the collective agreement must become members of the union within a specified period as a condition of employment.

5. Closed shop: The individual must be a member in good standing in order to be employed and remain employed in the establishment. In some such situations the union controls the hiring and/or placement of its members with the employer.

Within federal jurisdiction the Canada Labour Relations Board may certify a trade union as a bargaining agent when it has determined that the unit is appropriate for collective bargaining, and is satisfied that the majority of employees in it wish to have the union represent them as their bargaining agent. In any event, the Board may order that a representation vote be taken among the employees in the unit, and such a vote must be taken if not less than 35 percent and not more than 50 percent of the employees in the unit are members of the trade union and are without a union bargaining agent. It is the responsibility of the Board to determine the employees eligible to vote and make the necessary arrangements. A majority vote determines whether or not certification is granted. Run-off votes may be ordered when employees have not given majority support to one trade union when a choice was offered. If the Board determines that less than 35 percent of employees eligible to vote have in fact voted, a representation vote may be declared void.

C. "Right of trade unions to federate"

Canadian legislation does not prohibit or limit the affiliation of trade unions locally, provincially or internationally. For example, there are labour councils composed of various trade unions in a particular geographic area, district councils made up of locals from particular occupations and national and provincial councils and federations based on occupations or cutting across occupational lines.

The Canadian Labour Congress is the major national organization of trade unions representing in excess of 100 affiliated national and international unions with a membership of over 2.2 million. It represents the interest of its affiliates and of workers in general at the national level. The Congress charters provincial federations of labour and some 120 community labour councils. Internationally, the Congress represents workers' interests in the International Labour Organization and in the International Confederation of Free Trade Unions.

The Confederation of National Trade Unions represents some 180,000 workers in the Province of Québec and has in affiliation nine federations and four directly chartered local unions. It also is active on behalf of workers in the International Labour Organization and the World Confederation of Labour.

D. "Right of trade unions to function freely"

The right of trade unions to function freely is implicitly recognized by Part V of the Canada Labour Code. Unfair practices with respect to union membership and participation are set out in sections 184-189 of this Part. Employers are forbidden to participate or interfere in the formation or operation of a union or contribute financial or other support. Exceptions include support for pension, health or other welfare funds for the benefit of employees, use of the premises for meetings and meeting with union representatives or employees during working hours without reduction in pay or deduction of time worked. Employers are prohibited from discriminating against any person because of union membership, testimony under Part V, filing of a complaint or participation in a strike that is not prohibited by Part V. An employee may not be forced to forego or give up union membership.

Trade unions are prohibited from bargaining on behalf of a bargaining unit for which they are not the certified bargaining agent. They may not participate nor interfere in the formation or administration of an employers' organization nor conduct membership activities during working hours without the consent of the employer. Unions may not expel, suspend or deny membership to an individual by applying membership rules in a discriminatory manner, nor may they take disciplinary action in this manner. They may not discriminate against a person in respect to employment or membership or impose financial penalties because of testimony, disclosure and complaint under Part V. There is also a general prohibition to the effect that no one may, by intimidation or coercion, compel an individual to join, not to join or to give up membership in a trade union. Part V also sets out procedures for complaints to the Canadian Labour Relations Board about unfair practices, and the duties and powers of the Board to deal with such complaints. Redress may include re-instatement of employees and payment of remuneration lost, rescinding of disciplinary action by employer or union; and payment of compensation. Discrimination against individuals by employees organizations is also prohibited by the Canadian Human Rights Act, as mentioned previously in this report under Article 6, A and B(1).

E. "Right to strike"

The right of employees to strike and of employers to declare a lockout in the federal jurisdiction is limited by the provisions of Section 180-183 of Part V of the Canada Labour Code. No strike or lockout may be declared until certain requirements are met. These include attempts at collective bargaining and conciliation, and notice to the Minister of Labour. The Governor in Council may, in the national interest, order a delay in the commencement of a strike or lockout during the period between Parliaments. Either an employer or a trade union may apply to the Canada Labour Relations Board for a declaration to the effect that a strike or lockout is unlawful. The Board after affording a hearing to the union, employees or employer may make such a declaration.

Additional information on trade unionism and related matters may be found in Canada's biennial reports to the International Labour Organization on Convention 87, Freedom of Association and Protection of the Right to Organize.

ARTICLE 9: RIGHT TO SOCIAL SECURITY

General

The social security system in Canada is composed of a variety of social welfare and health care programs providing universal payments or services to all residents in some instances, and to specific population groups in others. Since Canada is a federal country, with many of the responsibilities for social security resting primarily with the provincial governments by virtue of the constitution, the social security system, overall, is a blend of four types of programs:

1. national programs that are solely financed and administered by the federal government;

2. federal-provincial programs that are jointly financed by the federal and provincial governments, administered by the provinces and co-ordinated to allow portability of benefits and provide for uniform minimum national standards;

3. federal-provincial programs financed jointly but administered by the provinces without such uniform standards;

4. programs administered and financed by the provinces and/or the municipalities (Some municipal program expenditures are cost-shared with the provincial governments which are reimbursed in part by the federal government).

The bulk of expenditure, however, is found in the areas of federal and federal-provincial programs.

The major programs comprising the Canadian social security system are outlined below.

Health Care

In the area of health care, Canada has universal state-sponsored health insurance programs, namely the Hospital Insurance Program and the Medical Care Program. These programs are designed to ensure that all residents of Canada have access to needed medical and hospital care on a prepaid basis and achieve these objectives through interlocking provincial plans which meet the minimum criteria of the federal legislation in such matters as comprehensiveness of insured services, universality of coverage, portability of benefits and public administration. The insured services of the Hospital Insurance Program include in-patient care (including necessary drugs, diagnostic tests, etc.) as well as selective out-patient services that vary somewhat from province to province. Complementing the protection of the Hospital Insurance Program is the Medical Care Program which covers all medically required services rendered by medical practitioners no matter where the services are rendered, and certain surgical-dental procedures undertaken by dental surgeons in hospitals. These programs, together or each of them singly, provide health insurance coverage for over 99% of the population (or over 23 million people).

At the federal level, the financing arrangements for the Hospital Insurance and Medical Care programs have recently been incorporated under umbrella legislation, the Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, 1977. This legislation also provides for increased federal financial contributions to the provinces with respect to the cost of certain extended health care services. These services are: nursing home intermediate care, adult residential care, converted mental hospitals, health aspects of home care and ambulatory health care services. Unlike the health insurance programs, federal contributions for these extended services are not conditional on the provinces having to meet minimal national standards respecting delivery of these services. This has been done in order to provide the provinces with flexibility in the development of these services.

In addition to the insured benefits of the national health insurance programs, the majority of the corresponding provincial plans provide additional benefits, on a limited basis, such as drug programs for the elderly, dental programs for children, and the services of optometrists.

Voluntary health insurance is available for personal health care services that are not insured services of the national health insurance programs, provided such additional coverage is not otherwise prohibited by provincial law. Voluntary health insurance is generally more readily available and less expensive to employee groups than to individuals.

Social Welfare/Security

Income Security

In the area of income security the federal government operates two universal programs - the Family Allowance and Old Age Security programs.

The Family Allowance Program pays maintaining parents or guardians* a monthly allowance on behalf of each dependent child under the age of 18 years. Benefits are indexed annually to the cost of living and are considered income for tax purposes. Provincial governments have the option of varying benefits - within certain limits - on the basis of the age of the child and/or family size, provided that the average benefit per child in the province equals the national benefit level. Alberta and Québec have used this option. One province, Québec, supplements the national benefits using its own funds.

On December 12, 1978, a Bill to amend the Income Tax Act and the Family Allowances Act was given Royal Assent. The amendments have two main elements. The first is a reduction in Family Allowances to $20 per child per month for 1979. However, these Allowances continue to be paid to all mothers regardless of income. They also continue to be fully indexed annually to the cost of living. The second element is a refundable Child Tax Credit which, for the 1978 taxation year, will provide $200 per child per annum to mothers in families with combined incomes of up to $18,000 a year. For families with combined incomes over $18,000, Child Tax Credits are payable on a gradually reduced basis: the amount payable is reduced $5 for every $100 by which family income exceeds $18,000. This credit will provide some benefits to two-thirds of all families with children and, on balance, even taking into account the reduction in Family Allowances and the changes to other child-related tax provisions, these initiatives will mean increased federal child benefits for over half of all Canadian families with children.

Old Age Security provides a universal pension to those aged 65 and over who meet certain residence requirements. The Old Age Security pension is subject to income tax. Added to this is the Guaranteed Income Supplement designed to complement Old Age Security pensions for those beneficiaries with little or no other income in order to ensure a minimum guaranteed income for the elderly. Eligibility for and the level of Guaranteed Income Supplement benefits payable are determined on the basis of an income test. Benefits are not taxable.

Recently, Spouses Allowances were added to the social security programs for the elderly. This program extends benefits equivalent to Old Age Security/Guaranteed Income Supplement to the spouses aged 60-64 of Old Age Security/Guaranteed Income Supplement recipients, subject to an income test.

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* Generally, the check is issued to the mother or the female guardian. It can also be issued to the male parent or guardian.

Old Age Security/Guaranteed Income Supplement and Spouses Allowance benefits are escalated quarterly for increases in the Consumer Price Index in order that benefit levels keep pace with increases in the cost of living.

For persons in need, provincial social assistance programs jointly financed with the federal government under the Canada Assistance Plan provide benefits based on a needs test which takes into account a person's budgetary requirements and his income and resources. Payments are made by provinces and municipalities to employable and unemployable persons in need, including needy persons in homes for special care such as nursing homes, or homes for the aged, to blind and disabled persons, to the elderly for whom Old Age Security payments are insufficient relative to their needs, to needy mothers with dependent children, and on behalf of children in the care of child welfare agencies.

Eligibility rules, benefit structures and administrative aspects of provincial social assistance programs vary from province to province. However, previous residence in a province cannot be a condition of eligibility for assistance. Provinces adjust social assistance rates from time to time, as the cost of living rises.

Other Federal Income Security Programs

Other Federal income support programs include Canada Manpower Training Allowances designed to reduce financial barriers to training, war veterans pensions and allowances, aid to refugee immigrants during an initial adjustment to Canadian life, and direct financial aid to registered or status Indians administered by the federal government, Indian band councils and provincial welfare departments.

Other Provincial Income Security Programs

In addition to federal programs, the provinces operate a variety of income security programs designed to maintain the incomes of Canadians. Alberta, British Columbia, Manitoba, Nova Scotia, Ontario and Saskatchewan have specific programs designed for the elderly. Most of these programs operate on a guaranteed minimum income basis, supplementing income from other sources including other income security programs.

Some provinces provide income assistance in the form of refundable tax credits. For example, the province of Ontario has Property, Sales and Pensioner tax credits. The province of Saskatchewan's Family Income Plan supplements the incomes of families to a minimum level based on family size. In 1979 the province of Québec initiated the Income Supplement Plan providing benefits for the working poor in that province.

Social Insurance

Canada has three principal social insurance schemes, Unemployment Insurance, the Canadian Pension Plan and Worker's Compensation.

Unemployment Insurance Benefits

A. Regular Benefits

An insured worker qualifies for the receipt of regular benefits if he had a minimum of 10 to 14 weeks of employment, depending on the unemployment rate in the region in which he resides, in a qualifying (base) period of 52 weeks preceding his claim, or in case he had been in receipt of unemployment insurance before, since the start of his last claim.

The claimant must be capable of and available for work and unable to obtain suitable employment. Moreover, the claimant must have experienced an involuntary interruption of earnings from employment for seven consecutive days.

The duration of the benefit depends on the length of employment before filing the claim.

The formula for determining the size of the benefit amounts to 60% of the average weekly insurable earnings in the qualifying weeks.

The weekly insurable earnings are subject to a ceiling, which in 1979 amounted to $265.00. The maximum unemployment benefit, 60% thereof is hence pegged at $159.00.

The ceiling on insurable earnings is adjusted annually according to changes in the average industrial composite earnings index, published by "Statistics Canada".

Earnings during the two weeks waiting period, are deducted from the first 3 weeks of benefit payment, the deduction not to exceed the benefit.

All earnings in the benefit period in excess of 25% of the gross weekly benefit rate will be deducted from the benefit payable.

Claimants with less than 14 weeks of insurable employment or unemployment insurance benefits drawn, or prescribed weeks of employment during the 52 weeks preceding the commencement of their qualifying period, are known as new entrants or re-entrants to the labour force and must have 20 or more weeks of insurable employment in their qualifying period and have experienced an interruption of earnings from employment.

Repeaters, who received unemployment insurance benefits during the qualifying period are entitled to renewed benefits, but need the number of weeks of insurable employment as shown in a particular table which relates the number of weeks of benefits drawn during the qualifying period to the rate of unemployment in the respective economic region. This table does not apply if the regional unemployment rate exceeds 11.5%.

B. Special Benefits

Claimants with 20 or more weeks of insured employment in the last 52 are entitled to special benefits in cases of incapability for work due to illness and pregnancy. As well, a three week lump sum payment is available to workers upon reaching age 65, whether or not they have stopped working, since those over 65 no longer pay premiums and cease to be eligible for payments.

1) Sickness Benefits

Sickness benefits may be received for a maximum of 15 weeks during a 25 week period. A claimant must have worked the required 20 weeks and have a medical certificate signed by a doctor stating the nature and probable duration of the illness or injury. As with regular Unemployment Insurance benefit, there is a two week waiting period during which no benefit is paid.

2) Maternity Benefits

A woman who wishes to claim maternity benefits must have, as with sickness benefits, 20 weeks of employment in the last 52. She must also prove she was either a member of the work force, was receiving unemployment insurance benefits or a combination of the two, for at least 10 weeks between the 30th and 50th weeks prior to the expected date of birth. This is to ensure that she was already a member of the labour force when she became pregnant and that she did not simply begin to work after she became pregnant in order to take advantage of unemployment insurance maternity benefits. A claimant must also have a medical certificate confirming the pregnancy and giving the expected date of birth.

Maternity benefits are paid for a maximum of 15 consecutive weeks during a period that can begin as early as 8 weeks before the expected date of birth and end as late as 17 weeks after the actual birth.

3) Age 65

Upon reaching age 65, workers are no longer required to pay unemployment insurance premiums and cease to be covered under the Unemployment Insurance Act. A three week lump sum benefit may be payable to these workers whether they have stopped working or not, provided they have worked 20 weeks in the last 52. Application must be made to the Unemployment Insurance Commission for the benefit at age 65 and there is no waiting period to serve.

C. Disqualification Period

A claimant is disqualified from receiving benefit under the Unemployment Insurance Act if without good cause since the interruption of earnings giving rise to his claim he/she has failed to apply for or has neglected to avail himself of an opportunity of suitable employment; has failed to carry out a written direction or attend an interview or a course of instruction as directed by an officer of the Canada Unemployment and Immigration Commission. Moreover, a claimant is disqualified from receiving benefit under the Act if he lost his employment by reason of his own misconduct or voluntarily left his employment without just cause.

When a claimant is disqualified from receiving benefit under the Unemployment Insurance Act, the disqualification shall be for such weeks following his waiting period, not exceeding 6, for which benefit would otherwise be payable and these weeks of disqualification, as liquidated, shall be "deemed to be weeks of benefit paid."

D. Appeal Procedure

Any claimant who disagrees with a decision made by the Commission concerning a claim for benefits may appeal that decision. Employers also have the right to appeal in cases where the Unemployment Insurance Commission pays benefits to an employee to which, in the employer's opinion, he or she is not entitled.

Appeals are heard by a Board of Referees made up of a Chairman, one representative from labour and one representative from management. A claimant disagreeing with the decision of a Board of Referees may, under certain circumstances, appeal to an Umpire who is a judge of the Federal Court of Canada.

Canada Pension Plan

The Canada Pension Plan is a social insurance program designed to provide Canadian workers and their families with a basic level of earnings-related protection against the contingencies of retirement, disability and death. It is a compulsory, contributory plan and makes up the second tier of Canada's three-tiered retirement income system (the first tier being Old Age Security and the third tier being private plans, savings etc. which provide for those things over and above basic requirements). The program (which operates in all provinces except Québec and in the territories) is financed out of contributions paid by the self-employed employers and employees. Contributions are based on a band of earnings, with benefits calculated on the basis of average lifetime earnings up to a maximum. Canada Pension Plan benefits are escalated annually for increases in the Consumer Price Index. The province of Québec operates a separate but comparable plan for people employed in that province.

Workers' Compensation

Workers' Compensation programs, operated by the provincial governments, provide compensation to workers for injury on the job and to spouses and dependent children surviving an employee who dies as a result of an industrial injury or illness. Coverage is compulsory for employees in specified categories of industry and commerce. Domestic and agricultural workers are excluded in all provinces save Ontario; bank employees with the exception of those employed in Ontario and Québec are also not covered. Some other provinces provide for coverage of these workers on voluntary application by the employer. Contributions to these programs are made by employers with rates of contributions varying from industry to industry depending on "risk of industry". The degree and the duration of disability determine the benefits paid.

Social Services

The costs incurred by provinces and municipalities in providing a range of social services are shareable under the Canada Assistance Plan on behalf of persons who are in need or likely to become in need. Such services have as their object the lessening, removal or prevention of the causes and effects of poverty, child neglect or dependence on public assistance. These include rehabilitation services such as activity centres to meet the special needs of persons at risk of being socially isolated or who require training in life skills; casework, counselling, assessment and referral services for individuals and families, child welfare services including protection, foster care, adoption services and preventive services to children in their own home; day care services for the children of working parents and for other similar services to support families in times of emergencies or as an aid to independent living in the community for the elderly and disabled; information and referral services to ensure access to social services; community development services designed to provide deprived communities or target populations with personnel resources so they may improve their own social and economic conditions; research, consultation and evaluation with respect to welfare programs; and administrative services relating to any of the foregoing services or to the provision of assistance.

The federal government has entered into agreements with nine provinces and the two territories unde the Vocational Rehabilitation of Disabled Persons Act whereby it shares in the costs of a wide variety of services designed to restore and retrain disabled persons to the point where they can again become self-supporting members of society. Social services additional to those specified in the Canada Assistance Plan or the Vocational Rehabilitation of Disabled Persons Act are provided by most provinces at their own expense.

Other Social Services

In addition to the above mentioned social services, there is a range of other services available through a variety of governmentdepartments and agencies to certain groups of people and voluntary organizations under specific circumstances. Examples of such programs are free legal assistance for low income groups, grants and contribution to non-governmental organizations and disadvantaged groups for various human rights, economic, social and cultural projects.

In the area of housing, Canada has a variety of federal and provincial programs promoting the construction of housing for low income groups and the elderly. Under these programs financial assistance is made available to both private and public (provincial and municipal) non-profit organizations, and entrepreneurs, for the construction, maintenance and management of low income housing. Low interest loans are also available for the repair and modernization of existing housing stock.

2. PUBLIC SERVICE OF CANADA

Introduction

Personnel management in the federal Public Service is governed by three main statutes: the Financial Administration Act, the Public Service Employment Act and the Public Service Staff Relations Act. The Government of Canada has delegated the responsibility for enforcing these Acts to central agencies.

Under the terms of the Financial Administration Act, the Treasury Board Secretariat recommends policies in respect of manpower utilization, compensation, pensions and insurance and staff relations. In its role as the Employer for the government, it represents departments in collective bargaining with Public Service unions. The bargaining mechanisms used are defined in the Public Service Staff Relations Act.

The Public Service Commission has been established as an autonomous agency accountable to Parliament for the administration of the Public Service Employment Act. Under the Act, the Commission is responsible for ensuring that the principle of merit is upheld in all staffing actions. This is accomplished by:

i) the development and administration of open, visible processes and standards for selection of candidates for positions in the Public Service;

ii) the provision and operation of redress mechanisms for appointments which are challenged as violations of the merit principle; and

iii) the conduct of audits to evaluate the manner in which staffing authority has been exercised.

The Commission is also called upon to discharge other responsibilities:

i) by Parliament, to enforce provisions of the Act concerning political activities of public servants and ensure equality of access to the Public Service for all Canadians;

ii) by Treasury Board, to conduct various programs of training and development on a central need basis;

iii) by the Governor in Council, to investigate discriminatory treatment in the Public Service; and

iv) by departments and agencies, to advise and assist in the conduct of their training programs.

The Privy Council Office is responsible for advising the Prime Minister and the Cabinet for the appointment, evaluation and compensation of deputy ministers and heads of Crown agencies.

The Treasury Board Secretariat and the Public Service Commission may delegate certain personnel management powers to the deputy ministers of the various departments. Policies and guidelines set out the manner in which these powers are to be exercised throughout the Public Service.

Special legislation governs the administration of the Armed Forces and the Royal Canadian Mounted Police. The National Defence Act and the Royal Canadian Mounted Police Act determine management responsibilities relating to the establishment of working conditions of members of the forces. At the end of the present part on the Public Service of Canada there is a section on the implementation of Articles 6 to 9 in the Armed Forces.

A. Right to work (Article 6)

Access to employment in the federal Public Service

In accordance with the Public Service Employment Act, most appointments are made from within the Public Service. For example, between 1973 and 1977, appointments of candidates from outside the Public Service fluctuated between 38,979 and 22,437, or between 40 per cent and 16.6 per cent of total appointments (134,996 in 1977). The Act sets out the order of priority to be given to persons in staffing actions. In order of statutory preference, they are employees returning from authorized leave, those formerly on ministerial staff, when that minister ceases to hold that portfolio, andI$_t$E?se on laid-off status. Where no qualified candidate is found among the above, an internal selection process and, if necessary, an external selection process may be instituted. In the latter case, qualified disabled veterans, other veterans, widows of veterans and Canadian citizens are given priority in the nominations for appointments.

(a) Internal selection

An employee may be appointed to a position in the Public Service through or without a competition.

Appointments without competition are justified if one of the employees having appointment priority is qualified for the position. Appointments may also be made without competition in cases of transfer or position reclassification or in certain situations covered by Public Service Commission regulations.

Where appointments are made through competition, candidates are invited to apply either by preparing a description of their qualifications and abilities, which will be kept in an inventory, or by responding to a competition poster.

Any appointments made from within the Public Service may be appealed.

(b) External selection

When internal selection processes have been exhausted, candidates may be recruited from outside the Public Service. Public Service employees also have the right to participate in external selection competitions. Candidates from outside the Public Service are recruited for open competitions through lists of persons who have applied for other positions, or by advertising the employment opportunities in one or more ways. Candidates from outside the Public Service may also be appointed without competition, but very few appointments are made in this manner. Recruitment from outside the Public Service means mainly university and post-secondary recruitment and recruitment in certain specialized areas for which there is a considerable demand in the Public Service. The Commission retains responsibility for most recruitment activities outside the Public Service.

(c) Selection process

Depending on the nature of the position to be filled, the Commission uses or asks to use different selection processes such as written examinations, specialized tests or interviews. Degrees, certificates and other documents, as well as references submitted by candidates, can also be verified.

The responsible staffing officer evaluates the candidates, selects those who are best qualified and prepares an eligible list in order of merit.

The position is offered to the first person on the list.

(d) Underrepresented groups

The staffing system is designed to give all Canadians an equal opportunity to participate in Public Service competitions. Special measures have been implemented to ensure that Francophones, women, Native people and handicapped persons are given equal access to employment in the Public Service. These positive measures are designed to remove institutional and attitudinal barriers to effective participation and representation of these groups in equality of opportunity and to ensure that these groups are aware of and can compete for positions in the Public Service.

(i) Francophone participation

In 1969, the Official Languages Act was adopted by Parliament, and Treasury Board developed programs to ensure that the public is served in the language of its choice, that federal employees increase the use of French in their work, and that there is a balanced participation of anglophones and francophones. On the basis of the criteria established jointly by Treasury Board and the Public Service Commission, each department must decide which positions will be classified as bilingual, and establish language training programs for its employees in accordance with the real needs of each work environment. Francophone participation in the Public Service has steadily increased since 1973. In 1977, twenty-seven per cent of all employees were Francophones, compared with twenty-four per cent in 1973. The continuing effort to make the Public Service bilingual is therefore beginning to show positive results.

(ii) Equal Employment Opportunities for Women

In 1971, the Public Service Commission created the Office of Equal Opportunities for Women to encourage and facilitate the recruitment, staffing and career development of women in the federal government and to guarantee equal opportunity in employment practices, policies and procedures. Through its initiatives the Office ensures that artificial barriers to the career advancement of women are removed. It provides advice and assistance to Departments in developing and implementing their Equal Opportunities for Women programs.

In 1975, a joint Treasury Board/Public Service Commission policy was issued by cabinet which informed all federal government departments that they must develop an Equal Opportunity for Women program and that they must name a senior departmental official responsible for the program. The policy requires each department to do a situational review as to its women employees and where deficiencies exist to ensure that the representation of male and female employees in the Public Service, by department, occupational group and level approximates the proportion of qualified and interested persons of both sexes available. The primary initiative for achieving this objective rests with departments. Assistance in the development and implementation of departmental action plans is provided by officers of the Treasury Board Secretariat and the Public Service Commission. Treasury Board is responsible for the monitoring of departmental action plans. Action plans and a review of progress are submitted to the Treasury Board on an annual basis.

(iii) Recruitment of Native people

A policy to increase the participation of Indians, Metis, non-status Indians and Inuit in the Public Service was developed by Treasury Board and the Public Service Commission, in co-operation with other departments and the leadership of the National Indian Brotherhood, the Native Council of Canada and the Inuit Tapirisat of Canada.

The objectives of this policy are to increase the participation of indigenous people in the Public Service generally, with particular emphasis on middle and senior management and advisory roles and to ensure that positions which require a knowledge of Native cultures and needs are filled by candidates who are familiar with the culture and aspirations of the customer to be served. One of the major thrusts of this policy is the involvement of Natives people in setting employment requirements, and their participation on selection boards.

The Public Service Commission has set up the Office of Native Employment to encourage Native employment prospects by helping Natives people to complete job applications and prepare for job interviews. The Office is also responsible for administering the Native training program, designed to help Natives people adapt to the Public Service and improve communication between Native and other Public Service employees.

(iv) Employment of the handicapped

A study conducted in 1977 on the placement of handicapped persons within the federal government has helped identify the main obstacles to the employment of the handicapped. Many shortcomings were noted in the staffing system, the design of government buildings, transportation and work instruments. The major obstacle, however, is the general attitude toward handicapped persons, and some definite changes are required in this area. The Commission and the Treasury Board Secretariat have studied possible ways of gradually eliminating these obstacles so as to give handicapped persons the same opportunities as other members of the population. In March 1978, the President of Treasury Board announced in the House of Commons the government's position on the employment of handicapped persons:

> "With respect to physically handicapped persons, and without regard for the nature of the handicap, it is the policy of the government to provide, and to actively promote, equal access to employment and career development in the federal Public Service in work for which they are considered to be qualified and to ensure that any barriers to such equal access, whether procedural, attitudinal or physical, are progressively eliminated as quickly as possible.

> With respect to mentally handicapped persons, it is the policy of the government to promote actively the increased employment of such persons within the federal Public Service in work for which they are considered to be qualified, and to ensure that, where necessary, special measures are utilized in the staffing process to give appropriate recognition to the nature of their handicap."

He then went on to indicate the main areas in which the government intends to intervene to improve the employment opportunities of the handicapped, and announced the government's plans with respect to information campaigns within the Public Service, changes in employment policies and practices, provision of special equipment, elimination of architectural obstacles, consultation with organizations for the handicapped, and so on.

(e) Appeals, investigations and anti-discrimination

In January 1978, the Public Service Commission consolidated its three avenues of redress, appeals, investigations and anti-discrimination into a single agency, the Appeals and Investigations Branch. This decision made the appeals and investigations processes more readily accessible to public servants who may have recourse to redress. At the same time, a Branch registrar was appointed to advise public servants and applicants for appointment on the most suitable action to take when seeking redress, receive all complaints, channel them to the proper directorate, and ensure that all complaints are properly and expeditiously handled.

According to its mandate the Appeals Directorate conducts independent inquiries into selections made under section 21 of the Public Service Employment Act, and into recommendations made for release or demotion on the grounds of incompetence or incapacity under section 31 of the same Act. Appeal board decisions are binding upon both appellant and the department or the Public Service Commission. These decisions can only be reviewed and set aside by the Federal Court of Canada. Since its creation in 1970, the Federal Court has reviewed 142 appeal board decisions. Of these, 25 were set aside. In the same period, appeal boards disposed of some 25,000 appeals.

In March 1978, following the promulgation of the Canadian Human Rights Act, the Canadian Human Rights Commission and the Anti-Discrimination Directorate agreed that the Directorate would continue to investigate complaints of discrimination from public servants and applicants for employment on grounds proscribed by the Public Service Employment Act and the Canadian Human Rights Act. The Anti-Discrimination Directorate also continues its general role of investigating allegations of harassment and unfair administrative treatment.

The third redress agency of the Branch, the Investigations Directorate established pursuant to section 7 of the Public Service Employment Act, investigates alleged misapplications of the Act or improper operations of completed staffing actions. In practice the Directorate handles complaints that are not appealable or do not fall within the mandate of the Anti-Discrimination Directorate.

(f) Promotions

Out of the 112,543 internal appointments made in 1977, 40,838, or approximately 30 per cent, were promotions. This rate varies from year to year. In 1974, the rate was around 60 per cent. Employee promotions vary considerably from one occupational category to another. For example, in 1977, one out of every eight employees in the Operational Category was promoted, while one out of every four in the Administration and Foreign Service Category was promoted.

All promotions made through closed competiton or on the basis of inventories are subject to appeal. Promotions made without competition, generally as a result of a position reclassification, are also subject to appeal if an employee obtains from the Commission an advice that his/her chances of promotion are diminished by the appointment.

(g) Career orientation

To help new employees understand their duties, work environment and responsibilities, each department must provide initiation programs for new, transferred and promoted employees, in accordance with the standards set by Treasury Board. These programs cover job orientation, terms and conditions of employment, opportunities for development, the department's role, relationship to other departments, the employee's role and so on.

Advice on a number of problems relating to the position may also be given to the employee by managers or personnel officers. In addition, the Public Service Commission has an employment information office to provide Public Service employees and Canadians in general with information on job vacancies in the federal Public Service. The Commission also offers a guidance and counselling service on career orientation as part of their service-wide Career Assignment Program designed for high potential managerial aspirants.

The Treasury Board Secretariat has established policy and guidelines on retirement planning to give departments guidance in setting up programs to help employees prepare for retirement. Treasury Board has also prepared outlines for the departments to help them deal with psychological and medical problems (alcoholism in particular) which can have a serious effect on employee performance. Employees who are troubled with such problems can obtain help from the medical services of the Department of Health and Welfare. Some departments also have counsellors on staff to advise employees on personal problems which can adversely affect their work (marital problems, financial problems, and so on).

(h) Human resources planning

Human resources planning is a process which enables departments to provide for their future personnel needs. Its purpose is to provide an essential link between overall organizational objectives and the improved utilization of its human resources. The process is conducted in each department within the framework of policies and practices set out by the Treasury Board Secretariat and the Public Service Commission. It brings into focus those "critical" groups in which a decrease in the number or competence of members could upset program operations. The Personnel Policy Branch of the Treasury Board Secretariat, in direct co-operation with the Public Service Commission, is constantly gathering information relating to the supply and demand situation. The data are analysed to anticipate possible surpluses and deficiencies so that corrective action can be taken. These studies help departments to determine the strong and weak points within their establishments and to implement the necessary strategies to acquire and develop the human resources to maintain program operations.

The Public Service Commission and the Treasury Board Secretariat also establish policies and guidelines to ensure that government concerns regarding the improvement of employment prospects for Francophones, women, Native people and the handicapped are integrated into human resources planning processes.

(i) Training and development

Expenditures related to training and development (excluding language training) were on the order of $107,000,000 in 1978-79. A further indication of the volume of training and development during this period is the number of participants in training activities, which reached the 161,000 plateau or 62.8% of all Public Service employees. Approximately 76% of those 161,000 participants were trained by and within government departments and agencies; approximately 9% were trained in private sector organizations; another 9% were trained through the central services of Staff Development Branch of the Public Service Commission, and finally 6% attended night courses (at government expense) in various educational institutions.

These extensive and costly training and development programs must be subject to strict regulation which takes into account government needs and ensures judicious use of public funds.

That is why Treasury Board felt it wise to direct the actions of the departments in this area and to set the conditions in which training and development may be provided. Since responsibility for training and development is shared by the central agencies and the departments, Treasury Board set about defining the roles of each in this area. A policy was adopted whereby the main responsibility for training and development was delegated to the departments. The latter are therefore directly responsible for training their personnel and may decide on one of three formulas to achieve this: (1) provide their own courses; (2) send their staff on courses offered by non-governmental institutions and organizations; or (3) send their staff on courses organized by the Commission. The Public Service Commission is responsible for providing assistance and advice on departmental programs, and for obtaining the human resources required to ensure the success of the programs. It also offers centralized courses for public servants from various departments, and it operates a number of special development programs designed for specific categories and groups of public servants. Treasury Board is responsible for defining policies and priorities, and for controlling the expenditures incurred by training programs.

To ensure that training and development activities contribute to the improvement of the organization's performance and productivity, a policy has been adopted whereby departments and agencies are required to develop systems to make certain that training at public expense improves efficiency, to determine staff training needs and to assess the results of training.

Under this policy, efforts made in the areas of training, future needs and policy and program effectiveness are evaluated. This policy, which calls for annual review of training matters, requires departments and agencies to issue annual reports describing the resources used for training, comparing program achievements with planned objectives, defining new needs for the years to come, and indicating areas in which training policies and programs can be improved to better meet the needs of the Public Service, the departments and the employees.

In addition, Treasury Board has adopted a policy aimed at facilitating access to executive positions by public servants whose performance is clearly superior. The policy sets out the terms and conditions of implementation of a career assignment program. The Public Service Commission is responsible for the management and implementation of the Career Assignment Program, which has become a permanent source of executive staff for the Public Service. Following a rigorous selection process, successful candidates must enrol in a twelve-week management training program. Most participants move into the assignment phase and then face the various challenges entailed in successive assignments. The number of new participants in this program in 1978 was 58: 23 took the course in English, 18 took the bilingual course, and 17 took the course in French. Out of the 58 participants, 24 per cent were women, 40 per cent were Francophones, and nine per cent were members of non-federal organizations. Out of the 53 public servants registered in the program in that year, 35 were from the National Capital Region and 18 were from various other regions in Canada. Two hundred and sixty-six assignments commenced during 1978 and 59 assignments were extended. Fourteen participants were assigned to positions immediately below the executive category and six other participants were selected for senior executive positions in 1978. The number of graduates who have moved into senior executive positions and equivalent level positions since the implementation of the program in 1968 to December 1978 has now reached 199.

There are approximately 277 employees now (Dec 1979) actively participating in this program: 212 are on assignment in the National Capital Region, 59 in the private sector, provincial governments or regional services of federal departments and agencies, one each in Trinidad and Belgium, two in Algeria and two in the United States.

The Special Development Programs connected with the Career Assignment Program since 1974 provide other career development opportunities through a combination of courses and assignments with other governments or organizations. Between 1964 and 1978, 120 candidates have benefited from these programs: 22 have been promoted in the senior executive category (SX) and 32, at the level immediately below. A program which combines courses at the Collège d'Europe in Belgium and assignments with the European Economic Community started in 1977. Among other programs offered is a "stage" (training session) at the École nationale d'administration publique in Québec and in Paris, and in the British Program for Administrative Principals in London. Six Canadian public servants participated in these programs in 1978, and five foreign public servants (one British, four French) came to Canada under the Career Assignment Program.

Administrative and support staff wishing to move into managerial positions can register in a program which offers selected candidates a broad range of career development assignments and training courses in various areas of public administration. The program for administrative trainees is open to university graduates who would like to work in the Public Service and to support staff with demonstrated aptitude for managerial positions. In 1977, 148 graduates were accepted into the program following written examinations and selection interviews, and were assigned to various departments. Their training extends over a period of up to two years, during which their performance is evaluated as they are assigned duties with increasing responsibility. The number of internal competitions for administrative trainees has increased sharply in the past year. Thirty secretaries and clerks were consequently assigned to the administrative trainees program, compared with 23 in 1976.

To make it easier to recognize managerial staff shortages and provide for replacement staff, a management planning and development program has been adopted. The policy which governs this program requires an annual review of executive staff:

(1) to provide a more coordinated, rational approach to the development and use of executives within and among departments which will take into account government objectives, departmental priorities and plans, the needs of the Public Service at large and individual executives' career aspirations;

(2) to provide an information system to:

   (a) relate program needs to the number and quality of executives available or likely to become available;

   (b) identify the gaps, actual and potential, between the demand for and supply of executives in the Public Service;

   (c) permit management to establish policies and objectives in relation to the composition of the work force, education and development, matters such as bilingualism, and to assess progress in relation to these objectives;

   (d) help in identifying executive education and development needs so that appropriate programs can be developed and plans made to provide replacements for those who are away on extended leave or on developmental assignments; and

   (e) facilitate more effective and timely staffing through improved career and succession planning.

Managerial staff members may also be granted career development leave to enable them to meet ever more diversified needs. The policy governing this leave limits its length to one year. Such a leave could be renewed after seven years. Managerial staff members eligible for this type of leave are identified through the management planning and development program mentioned above. Candidates for career development leave must meet the following criteria:

(1) they must belong to the senior executive group;

(2) they must have at least seven years' continuous employment in the Public Service;

(3) their performance must be above-average and they must be likely candidates for advancement.

A program of temporary exchanges of employees between the federal Public Service and the private sector, universities, other government levels in Canada, international organizations and foreign governments was also implemented to promote understanding and co-operation between leaders in various fields. The Interchange Program of the Public Service Commission has affected more than 400 exchanges, 111 of them in 1977. Sixty senior executives were assigned to the Public Service. Of these, forty-seven were from the private sector, ten from universities, two from other levels of government in Canada and one was an Australian public servant. Fifty-one federal public servants were involved in exchanges: twenty-seven went to the private sector, three to universities, eleven to other levels of Canadian government, and ten to international organizations or foreign governments.

The Public Service Commission offers specialized courses, seminars and symposiums for senior executives on certain aspects of management in government. It also pays particular attention to the training and developmental needs of key occupational groups which are similarly distributed throughout the public service, such as finance and personnel. The objectives of these special programs include the provision of an information system which will:

(a) relate program needs to the numbers and quality of personnel available or likely to become available;

(b) identify the gaps, actual and potential, between the demand for and the supply of qualified staff;

(c) permit management to establish manpower policies and objectives in relation to the composition of the occupational groups and to assess progress made toward achieving these objectives;

(d) help identify service-wide education and development needs so that appropriate programs can be developed and carried out;

(e) facilitate more effective and timely staffing through improved career planning.

(j) Termination of employment

(1) Employer's rights and responsibilities

Managers are responsible for ensuring that their employees uphold certain standards of conduct. These standards are set out in acts and regulations, or directives of the department or the central agencies, or are generally understood to be prevailing social norms. On the whole, emphasis is placed on the correction of employee behaviour rather than sanctions. Thus disciplinary measures taken by managers range from verbal reprimands to the ultimate action of discharge, although the latter measure is rarely used. In 1977, only ninety-two employees were discharged on disciplinary grounds.

There are other grounds to release employees. Under section 31 of the Public Service Employment Act, managers may recommend to the Public Service Commission that it release employees who are judged to be unable to perform their duties, or other duties at a lower level, because they are incompetent or have been incapacitated. Normally such a recommendation to the Commission would only be made after departmental management had exhausted the practical possibilities of employing a person within the department, including demotion. In 1977, eleven employees were demoted for incompetence or incapacity. Before authorizing the release of an employee for incompetence or incapacity, the Commission attempts to relocate the individual elsewhere in the Public Service. Release on grounds of incompetence or incapacity is a relatively rare occurrence. In 1977, only eighty employees were released for such reasons. Managers can also lay off employees whose services are no longer required because of lack of work or the discontinuance of a function. The names of these employees are placed on a lay-off list, and they are given priority for reappointment to positions for which they are qualified. Before being laid off, employees may be retrained, transferred or reinstated elsewhere. Employees on probation may also be released where their performance is considered unsatisfactory. In 1977, 760 employees on probation were released. Employees released during probation, who already belonged to the Public Service, have the right to ask the Public Service Commission to put their name on an eligible list, at a level that, at the opinion of the Commission, corresponds to their skills.

(2) Employee's rights

Employees have access to various formal and informal processes of redress to protect their rights. Management decisions regarding releases or demotions on grounds of incompetence or incapacity may be appealed to the Public Service Commission.

If employees are dissatisfied with the disciplinary measures taken in their regard, they may use their department's internal procedures to grieve them. If the decision is not in their favour, they may file an official grievance in accordance with the procedures provided for in the various collective agreements, or arbitral award and be represented by the appropriate bargaining agent. They may also take their cases to the appropriate courts of law, like any other citizens. In cases of discriminatory practices, they may request that the Anti-Discrimination Directorate of the Commission institute an investigation, or they may seek redress under the terms of the Canadian Human Rights Act.

B. Conditions of work (Article 7)

Most of the conditions of employment for approximately ninety per cent of the Public Service employees are determined through collective bargaining. The conditions of employment of staff excluded from collective bargaining are established by Treasury Board. The rates of pay of executive staff are authorized by the Cabinet following recommendations by the Advisory Group on Executive Compensation in the Public Service.

1. Employees subject to collective bargaining

The provisions governing collective bargaining are set out in the Public Service Staff Relations Act. This Act governs relations between the employer and all Public Service employees, with the exception of a few designated employees.

Fifteen bargaining agents have been certified by the Public Service Staff Relations Board to represent 81 bargaining units. The Public Service Alliance of Canada represents 41 bargaining units; the Professional Institute of the Public Service, 26 units; the International Brotherhood of Electrical Workers, one unit; the Professional Association of Foreign Service Officers, one unit; the Canadian Air Traffic Control Association, one unit; the Association of Postal Officials of Canada, one unit; the Canadian Merchant Service Guild, one unit; the Federal Government Dockyards Trades and Labour Council (East), one unit; the Federal Government Dockyards Trades and Labour Council (Esquimalt), one unit; the Letter Carriers Union of Canada, one unit; the Canadian Union of Postal Workers, one unit; the Canadian Postmasters and Assistants Association, one unit; the Council of Graphic Arts Union, one unit; the Economists, Sociologists and Statisticians Association, one unit; and the Canadian Union of Professional and Technical Employees, two units. Approximately 264,408 employees are members of bargaining units.

Since the advent of collective bargaining in 1967, Treasury Board has concluded 323 agreements through bargaining, 100 through arbitration, 41 through conciliation and 16 following strikes. At the time of certification, 21.30 per cent of employees chose conciliation as the process for resolution of disputes. This percentage had increased by over fifty per cent as of July 31, 1978 to 72.29 per cent.

(a) Scope of bargaining

Under section 56(2)(b) of the Public Service Staff Relations Act, all terms and conditions of employment which would conflict directly or indirectly with any term or condition of employment that has been or may be established pursuant to the Government Employees Compensation Act, the Government Vessels Discipline Act, the Public Service Employment Act or the Public Service Superannuation Act are excluded from collective bargaining. Under s 56(2), the four statutes mentioned above may impose restrictions on collective bargaining and limit its scope by excluding several matters from bargaining. Thus, questions relating to appointments, promotions and the definition of selection standards are not subject to collective bargaining. Lay-offs resulting from a work shortage, the discontinuance of a function, a "surplus" of personnel or a sub-contract are also excluded from the scope of bargaining. Nevertheless, employees who are laid off can ask the Public Service Commission to examine the possibility of appointing them without competition in another position. Section 37 of the Public Service Employment Regulations provides that such an employee is entitled, for a period of twelve months, to be reappointed. The length of probationary periods for new employees is a question which is also not subject to bargaining. Under the Public Service Employment Regulations, the length of probationary periods for employees in the Operational and Administrative Support categories is six months and that of employees in other categories, 12 months, except for employees in the Correctional Group who have a probationary period of 24 months.

Training, development and performance appraisals are other questions which are the sole responsibility of the employer. Compensation as provided under the Government Employees Compensation Act for employees who become disabled by reason of an accident in the course of their employment or an industrial disease, contributions, benefits and factors governing the Public Service Superannuation Act are also not subject to bargaining. Section 7 of the Public Service Staff Relations Act imposes additional restrictions on bargaining by providing that:

> "Nothing in this Act shall be construed to affect the right or authority of the employer to determine the organization of the Public Service and to assign duties to and classify positions therein"

which means that the organization of the Public Service, the assignment of duties to positions and the preparation of classification standards are questions which are not subject to collective bargaining.

(b) National Joint Council

Although a number of matters are excluded from collective bargaining, consultations do take place between the employer and the unions on many questions - for example, moving allowances, the development of the Group Surgical-Medical Insurance Plan, supplementary hospital and medical insurance, the development of an occupational health policy and the improvement of physical conditions of work (ranging from safety standards to parking space). These discussions and exchanges between the employer and the unions take place within the National Joint Council.

The Council is composed of senior officials of the Public Service representing the employer or the "official" side and, on the "staff" side, a representative from each employee organization or council of employee organization certified as a bargaining agent under the Public Service Staff Relations Act that wishes to participate in the Council's work.

A member from the "official" side of the Council acts as Chairman and is assisted by a Co-Chairman elected by the "staff" side. A General Secretary is appointed by the Council as a whole. The Chairman and Co-Chairman alternate in presiding over meetings of the Council.

After meeting separately, the "official" and "employee" sides present their proposals to the Council. Each union may submit questions for consideration directly to the Council. As a rule, the Council may study any question which is not subject to bargaining, but which affects the well-being and/or the efficiency of federal public servants. It may then make recommendations to the appropriate executive body of the government.

Decisions must be unanimous. There are no motions, nor is there a formal voting system. Thus, the number of members present from both sides need not be equal, although the constitution provides that the number of representatives from the "official" side must not exceed the number of representatives from the "staff" side.

The Public Service Commission regularly consults the unions on matters under its jurisdiction, and encourages recommendations on various questions which are not subject to formal bargaining.

(c) Classification and compensation

The classification of positions and compensation of federal Public Service employees are governed by separate mechanisms, which are nonetheless interdependent. The classification of positions is the responsibility of Treasury Board. The pay scales for the various employment categories are determined through collective bargaining. Each union is entitled to choose between arbitration and conciliation (which provides the right to strike) as the process for resolution of disputes before bargaining begins. The latter, however, is becoming more and more popular as a means of solving disputes. Only unions with a limited bargaining power choose arbitration.

i) Classification of positions

The federal Public Service classification system covers approximately 250,000 positions. The system is broken down into broad employment categories, which include a number of occupational groups with common characteristics, either in terms of the nature of the duties or the training required by candidates.

There are six major employment categories:

1. Operational - includes 12 occupational groups involving manual, semi-specialized and specialized work.

2. Administrative Support - includes six occupational groups involving the preparation, transfer, systemization and upkeep of files, reports and notices, and the enforcement of Acts and regulations.

3. Technical - includes 14 occupational groups responsible for specialized work requiring training at the secondary level.

4. Administrative and Foreign Service - includes 13 occupational groups responsible for planning, managing and controlling programs for the public and other countries, and for internal administration.

5. Scientific and Professional - includes 29 occupational groups involving specialized work requiring university or professional qualifications.

6. Executive - includes one occupational group responsible for policy development and program management.

There are separate pay scales and personnel management standards for each occupational group in every category. The key factor in the compensation and classification system is the fact that positions are grouped by occupation. The occupational group is the determining factor in union certification, position classification, and the preparation of data for bargaining on salaries and other conditions of employment by the employer and unions. As a rule, the occupational groupings bring together positions for which qualifications are identical and which exist on the "outside" job market. Several occupational groups have been divided into sub-groups to facilitate comparison with positions outside the Public Service.

Positions in the Public Service are classified on the basis of standards prepared and approved by Treasury Board following consultations with the bargaining agents. Almost every occupational group has its own classification standards. The classification standards include a definition of the category of jobs in the occupational group or sub-group, and one or more evaluation plans. All of these components are an integral part of the classification standards and must be used in determining the group or level of a given position. All the evaluation plans contain bench-mark position descriptions which serve as guides to evaluators in assessing factors and scales. The evaluation plans and techniques used vary according to the responsibilities of the various occupational groups. Classification standards may make use of up to five different evaluation methods, but most use only one.

ii) Compensation

The policy of the employer regarding compensation is that salaries of government employees should be comparable to those paid by outside employers for similar work, taking into account other elements of compensation besides pay. In addition to being fair to both public servants and taxpayers, this policy ensures that:

- qualified employees will be attracted to the Public Service and then remain;
- the employer will have a frame of reference for dealing with union requests;
- talents will be divided more evenly between the public and private sectors.

Even though compensation is subject to collective bargaining, the principle of comparability helps ensure that public servants are as well paid as their counterparts in the private sector or in municipal or provincial government. The system of classification by job category and occupational group enables the employer to react to changes in the outside market in its bargaining with each occupational group. In Canada, compensation and pay rates tend to vary from region to region in accordance with the demand for a given type of employment and the economy of the region. Wherever possible, the employer tries to negotiate regional pay rates for jobs for which demand is regional and national rates where the demand is on a national scale.

Most public servants' compensation and conditions of employment became subject to bargaining when the Public Service Staff Relations Act was passed in 1967. Since then Treasury Board has acted as the Employer for the Government of Canada. Even though bargaining makes the application of the comparability principle more difficult, the Employer still pursues the objective of keeping public servants' pay rates in line with those in the private sector.

2. Employees not subject to collective bargaining

The terms and conditions of employment of employees not subject to collective bargaining are determined unilaterally by Treasury Board. As a rule, changes in their conditions of employment correspond closely to those made for groups subject to collective bargaining. The compensation and classification of these employees are set by Treasury Board, which tries to ensure that the relative value of the salary rates between the two groups of employees is maintained. Employees excluded from collective bargaining under the provisions of the Public Service Staff Relations Act are those who perform "managerial" functions. The Act defines the expression "person employed in a managerial or confidential capacity" as follows:

> "person employed in a managerial or confidential capacity, means any person who
>
> (a) is employed in a position confidential to the Governor General, a Minister of the Crown, a judge of the Supreme or Exchequer Court of Canada, the deputy head of a department or the chief executive officer of any other portion of the Public Service, or
>
> (b) is employed as a legal officer in the Department of Justice,
>
> and includes any other person employed in the Public Service who in connection with an application for certification of a bargaining agent for a bargaining unit is designated by the Board, or who in any case where a bargaining agent for a bargaining unit has been certified by the Board is designated in prescribed manner by the employer, or by the Board on objection thereto by the bargaining agent, to be a person
>
> (c) who has executive duties and responsibilities in relation to the development and administration of government programs,
>
> (d) whose duties include those of a personnel administrator or who has duties that cause

him to be directly involved in the process of collective bargaining on behalf of the employer,

(e) who is required by reason of his duties and responsibilities to deal formally on behalf of the employer with a grievance presented in accordance with the grievance process provided for by this Act,

(f) who is employed in a position confidential to any person described in paragraph (b), (c), (d) or (e), or

(g) who is not otherwise described in paragraph (c), (d), (e) or (f), but who in the opinion of the Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer."

The ratio of employees which are excluded from bargaining units as "persons employed in a managerial or confidential capacity" varies between 7 and 8 percent. These employees do not have the right to strike. Exclusions are decided by the Public Service Staff Relations Board following representations by the employer and by bargaining agents.

3. Executive staff

Two groups of Public Service employees occupy executive positions. The first includes approximately 330 persons appointed by the Governor in Council to such positions as Deputy Minister, Chairman, member of a board or commission, or other positions provided for under the legislation.

The second group is composed of approximately 1,700 senior public servants appointed by the public Service Commission to the positions of Assistant Deputy Minister, director or senior officer in charge of policy development or program management.

In September 1967, the government authorized the creation of the Advisory Group on Executive Compensation in the Public Service to make recommendations from time to time on two subjects: the rates of pay and conditions of employment of executive personnel in the Public Service, and the principles that should govern the determination of rates of pay and conditions of employment of other public servants employed in a managerial or confidential capacity. Since its creation, the Advisory Group has tabled six reports and the recommendations therein have led to the establishment of a pay structure for both groups.

4. Occupational safety and health

To reduce the frequency of on-duty injuries, Treasury Board has instituted a policy on occupational safety in the Public service. The guidelines of this policy are used by departments to prepare safety programs designed to ensure safe and healthy conditions of work for all their employees and to eliminate risks of on-duty injuries.

Further, to ensure that the measures required to prevent accidents and eliminate work-related or environment-related factors which are dangerous to the health are provided for, Treasury Board has developed or adapted standards setting out the minimum requirements which must be met in respect of working conditions.

Lastly, to help employees whose health problems could adversely affect their performance, an employee assistance program has been implemented to help identify and rehabilitate those who are facing such problems (especially problems related to the abuse of alcohol) before it is too late. This program is consistent with the occupational health policy, which states that:

> "the Government recognizes the value and importance of good health, and particularly the need to promote, foster and maintain the health and well-being of employees of the Public Service. That Policy also authorizes the Public Service Health Program, which provides appropriate levels of professional consultative services and facilities designed to maintain among employees a high degree of physical and mental well-being, and also provides as required, advice for the improvement of the physical and mental adjustment of employees to their work."

5. Hours of work

The number of hours per work day and week is stipulated in the collective agreements, or in the compensation plans of employees who are not subject to a collective agreement. The hours of work are normally 7½ hours per day, and 37½ hours per week, spread over a five-day work week.

Where employees are required to work overtime on a holiday or on the first day of rest of the weekly rest period, compensation is usually granted on the basis of time and one half. Compensation on the basis of double time is granted in respect of the second day of rest.

Certain employment categories such as the Executive category or Financial Administration or Program Administration groups are subject to different provisions. Compensation for overtime is in these cases in the form of compensatory leave.

Treasury Board has instituted a policy of flexible hours to help improve the employees' performance services to the public. Under this policy, employees may set their own working hours, in consultation with their immediate supervisors. The policy does, however, provide for a set period during which all employees must be at work. This period is between 9:30 am and 3:30 pm. The time allowed for meals is a minimum of half an hour and a maximum of one and one-half hours.

In addition to the eleven designated paid holidays and the voting leave allowed for federal, provincial and municipal elections and referendums, there are several circumstances in which an employee may be granted leave with pay. Leave may be granted for union business or for social or recreational activities, or because of extreme weather conditions. Deputy heads may grant employees leave to attend religious or official ceremonies. Personnel selection leave and rest leave may also be granted with pay.

Finally, employees may be granted leave without pay in the cases listed below for set periods of time, in accordance with the standards provided for in the collective agreements or compensation plans in the case of employees excluded from collective agreements:

(1) maternity leave;

(2) work in an employee organization and attending union meetings;

(3) employment in a Minister's office or in the office of the Leader of the official Opposition in the House of Commons;

(4) military service leave;

(5) leave without pay when the employee has no sick leave credits or has used them all;

(6) interview for a position within the Public Service as defined in the Public Service Employment Act for which the salary is payable from the Consolidated Revenue Fund;

(7) elections for a municipal office and, if the candidate is elected, for the duration of his term of office;

(8) employment outside the Public Service as defined in the Public Service Employment Act;

(9) education leave;

(10) participation in international sports competitions;

(11) election to a position as Member of the House of Commons, the Parliament of a province, the Legislative Assembly of the Yukon Territory or the Legislative Assembly of the Northwest Territories;

(12) for any other purpose not mentioned above.

C. Trade union rights (Article 8)

The union rights of Public Service employees are provided for under the Public Service Staff Relations Act. Further guaranties of these rights are contained in the Criminal Code which provides that a union may not use violence or intimidation to recruit members or to negotiate an agreement with the employer (ss. 305 and 381) and in the Canadian Human Rights Act which prohibits an employee organization from discriminating on the basis of race, national or ethnic origin, colour, religion, age, sex, marital status, conviction for which a pardon has been granted or physical handicap in granting membership and the rights and benefits this confers upon an individual (ss. 3, 9 and 10).

1. Union certification

Any employee organization that wishes to vote on representation must first prove to the Staff Relations Board that it constitutes a unit appropriate for collective bargaining, and that approximately fifty per cent of the employees are members. The organization must then obtain the support of a majority of the employees eligible to vote in order to be certified.

Once a bargaining unit is determined to be appropriate for collective bargaining and the bargaining agent has been certified, the parties are bound by this determination until such time as: (a) the Board is called upon to deal with another application for certification for all or some of the employees in the unit determined in the original certificate, and (b) has found another unit to be appropriate. Under the present provisions of the Act, it is impossible for the parties to agree to change the description of the bargaining unit as set out in the certificate. Under section 26(4) of the Act, the Board must determine bargaining units within predetermined occupational groups as specified by the Public Service Commission under section 26(1) and (2) of the Public Service Staff Relations Act.

Where several bargaining units wish to obtain the right to bargain collectively as a bargaining agent, one or more of them must submit a new application for certification. Under section 44 of the Act, the Board has the power to revoke the certification of a council of employee organizations where the council no longer meets certain requirements as a result of an alteration in the constituent membership of the council or any other circumstance.

In addition, the Public Service Staff Relations Act, R.S.C. 1970, ch. P-35, prohibits the Public Service Staff Relations Board from certifying, as bargaining agent for a bargaining unit, any employee organization that discriminates against any employee because of sex, race, national origin, colour or religion (s. 39(3)). This Act also requires that the Board revoke the certification of any employee organization which practices a prohibited form of discrimination where a request to this effect is submitted to it by an employer or an employee and where the alleged discrimination has been proved (s. 42(2)).

2. Union affiliation

An international union or an affiliate of an international union may submit an application for certification provided that it can prove beyond any doubt to the Staff Relations Board that its collective bargaining policies will be determined solely by union members who work for the Public Service. If these conditions are not met, the Board has the power to revoke the certification.

3. Union status

Under the terms of the Public Service Staff Relations Act, particularly section 40, where an employee organization is certified as the bargaining agent for a bargaining unit,

> "(a) the employee organization has the exclusive right under this Act
>
> (i) to bargain collectively on behalf of employees in the bargaining unit and to bind them by a collective agreement until its certification in respect of the bargaining unit is revoked, and
>
> (ii) to represent, in accordance with this Act, an employee in the presentation or reference to adjudication of a grievance relating to the interpretation or application of a collective agreement or arbitral award applying to the bargaining unit to which the employee belongs;
>
> (b) if another employee organization had been previously certified as bargaining agent in respect of employees in the bargaining unit, the certification of the previously certified bargaining agent is thereupon revoked in respect of such employees; and
>
> (c) if, at the time of certification, a collective agreement or arbitral award binding on the employees in the bargaining unit is in

> force, the employee organization shall be substituted as a party to the agreement or award in place of the bargaining agent that had been a party thereto and may, notwithstanding anything contained in the agreement or award, terminate the agreement or award, in so far as it applies to the employees in the bargaining unit, upon two months notice to the employer given within one month from such certification."

In all cases where paragraph (1)(b) or (c) applies, the Board must, upon the request of the employer or the former or present bargaining agent, decide all questions relating to a right or duty of the former or present bargaining agent arising out of the application of this paragraph.

Several employee organizations do more than protect the working conditions of their members. Some also try to promote professional interests, that is, they try to protect the professional status and levels of their members.

4. Right to strike

Under the Public Service Staff Relations Act, a bargaining agent has the option of specifying for each bargaining unit, one of two processes for the resolution of interest disputes: (a) reference to arbitration, or (b) reference to a conciliation board. Where the second of these processes is specified, the bargaining agent is entitled, ultimately, to call or authorize a strike and the employees may engage in a strike.

(a) Conditions of exercise of right

The statutory recognition of the right of public servants to engage in a legal strike is restricted by the fact that a strike cannot legally be held, nor a conciliation board established, prior to the determination of the employees whose duties are essential in the interest of the safety and security of the public, referred to as "designated employees" in the Act. If the employer and the bargaining agent cannot agree as to which employees should be designated, the Staff Relations Board must make the necessary determination. A preliminary statement of the "designated employees" in a bargaining unit is provided to the bargaining agent to facilitate the choice of process for resolution of the dispute which must be specified before the notice to bargain collectively is given (that is, two months prior to the date on which the agreement or the arbitral award ceases to apply). If the bargaining agent chooses referral to a conciliation board as the process for resolution of the dispute, the Employer must furnish the Board and bargaining agent involved with a definitive statement of the designated employees within twenty days after the notice to bargain collectively is given. The bargaining agent has twenty days in which to object to the statement furnished by the employer, in whole or in part. If the parties cannot reach an agreement, determination of the designated employees must be made by the Board. The purpose of the provision regarding designation in section 79(1) of the Act is to prevent employees whose duties are essential in the interest of public safety and security from engaging in a strike.

(b) Conciliation

Where a bargaining agent has chosen referral to a conciliation board as the process for resolution of a dispute, and bargaining has reached a standstill, either party may request the Chairman of the Public Service Staff Relations Board to appoint a conciliator. Where the Chairman feels that it may assist the parties to reach an agreement, he may establish a conciliation board. In such an event, the employees may not strike before seven days have elapsed from the receipt by the Chairman of the report of the conciliation board.

5. Royal Canadian Mounted Police

The union rights discussed in section 8 are not applicable to members of the Royal Canadian Mounted Police. The Royal Canadian Mounted Police Act specifically provides that compensation and benefits to be paid to members of the Royal Canadian Mounted Police are to be set unilaterally by Treasury Board. Consultation mechanisms have nevertheless been established to enable these employees to participate in the determination of their working conditions.

D. Health insurance and income insurance (Article 9)

1. Sick leave

Employees have the right to accumulate sick leave credits to protect their incomes when they are unable to work because of an illness or injury unrelated to their employment. Provisions regarding sick leave are found in collective agreements, or in compensation plans in the case of persons not subject to collective bargaining.

Under almost all collective agreements, sick leave credits are earned at the rate of 1¼ days for each month for which an employee received pay for at least ten days. Sick leave is deducted from accumulated leave as it is granted. The provisions relating to sick leave in the compensation plans are similar to those in collective agreements. In certain circumstances as stipulated in the agreements or plans, a medical certificate may be required from an employee in order to ensure some measure of control over the use of sick leave.

> force, the employee organization shall be substituted as a party to the agreement or award in place of the bargaining agent that had been a party thereto and may, notwithstanding anything contained in the agreement or award, terminate the agreement or award, in so far as it applies to the employees in the bargaining unit, upon two months notice to the employer given within one month from such certification."

In all cases where paragraph (1)(b) or (c) applies, the Board must, upon the request of the employer or the former or present bargaining agent, decide all questions relating to a right or duty of the former or present bargaining agent arising out of the application of this paragraph.

Several employee organizations do more than protect the working conditions of their members. Some also try to promote professional interests, that is, they try to protect the professional status and levels of their members.

4. Right to strike

Under the Public Service Staff Relations Act, a bargaining agent has the option of specifying for each bargaining unit, one of two processes for the resolution of interest disputes: (a) reference to arbitration, or (b) reference to a conciliation board. Where the second of these processes is specified, the bargaining agent is entitled, ultimately, to call or authorize a strike and the employees may engage in a strike.

(a) Conditions of exercise of right

The statutory recognition of the right of public servants to engage in a legal strike is restricted by the fact that a strike cannot legally be held, nor a conciliation board established, prior to the determination of the employees whose duties are essential in the interest of the safety and security of the public, referred to as "designated employees" in the Act. If the employer and the bargaining agent cannot agree as to which employees should be designated, the Staff Relations Board must make the necessary determination. A preliminary statement of the "designated employees" in a bargaining unit is provided to the bargaining agent to facilitate the choice of process for resolution of the dispute which must be specified before the notice to bargain collectively is given (that is, two months prior to the date on which the agreement or the arbitral award ceases to apply). If the bargaining agent chooses referral to a conciliation board as the process for resolution of the dispute, the Employer must furnish the Board and bargaining agent involved with a definitive statement of the designated employees within twenty days after the notice to bargain collectively is given. The bargaining agent has twenty days in which to object to the statement furnished by the employer, in whole or in part. If the parties cannot reach an agreement, determination of the designated employees must be made by the Board. The purpose of the provision regarding designation in section 79(1) of the Act is to prevent employees whose duties are essential in the interest of public safety and security from engaging in a strike.

(b) Conciliation

Where a bargaining agent has chosen referral to a conciliation board as the process for resolution of a dispute, and bargaining has reached a standstill, either party may request the Chairman of the Public Service Staff Relations Board to appoint a conciliator. Where the Chairman feels that it may assist the parties to reach an agreement, he may establish a conciliation board. In such an event, the employees may not strike before seven days have elapsed from the receipt by the Chairman of the report of the conciliation board.

5. Royal Canadian Mounted Police

The union rights discussed in section 8 are not applicable to members of the Royal Canadian Mounted Police. The Royal Canadian Mounted Police Act specifically provides that compensation and benefits to be paid to members of the Royal Canadian Mounted Police are to be set unilaterally by Treasury Board. Consultation mechanisms have nevertheless been established to enable these employees to participate in the determination of their working conditions.

D. Health insurance and income insurance (Article 9)

1. Sick leave

Employees have the right to accumulate sick leave credits to protect their incomes when they are unable to work because of an illness or injury unrelated to their employment. Provisions regarding sick leave are found in collective agreements, or in compensation plans in the case of persons not subject to collective bargaining.

Under almost all collective agreements, sick leave credits are earned at the rate of 1¼ days for each month for which an employee received pay for at least ten days. Sick leave is deducted from accumulated leave as it is granted. The provisions relating to sick leave in the compensation plans are similar to those in collective agreements. In certain circumstances as stipulated in the agreements or plans, a medical certificate may be required from an employee in order to ensure some measure of control over the use of sick leave.

2. Insurance benefits

As an employer, the Canadian government contributes financially to employee participation in provincial hospital and medical insurance plans. A group surgical-medical insurance plan is also available for public servants, to provide coverage of major medical expenses and certain surgical fees not included in provincial health insurance plans. This plan also provides an optional coverage of hospital costs. In addition, there are special provisions that provide employees working outside Canada with complete surgical-medical protection.

3. Disability insurance

A disability insurance plan is offered to supplement sick leave for employees subject to collective bargaining. This plan provides benefits to replace a large portion of any pay lost during long periods of disability. The purpose of the plan is to provide benefits to supplement those received under the Public Service Superannuation Act, the Government Employees Compensation Act, the Canada Pension Plan and the Québec Pension Plan. An employee can thus be paid up to seventy per cent of his annual salary during long periods of disability. Benefits paid to the employee under the above plans are deducted from this amount. The employee is entitled to disability benefits for a period of up to twenty-four months. When this period has elapsed, he continues to receive benefits for as long as he is incapable of occupying a comparable position, reasonably adapted to his qualifications, considering his level of education, training and experience. Benefits are never payable to employees over the age of 65.

The Long Term Disability Plan is a plan for federal public servants excluded from bargaining units. The terms and conditions of the plan are approximately the same as those that the disability insurance plan provides, the difference being that the benefits can amount to 75 per cent of the employee's annual salary.

4. Injury-on-duty leave

An employee who becomes disabled due to an occupational injury or illness is entitled to injury-on-duty leave with full normal pay where the disability has been confirmed by a provincial workers' compensation board. The provisions for injury-on-duty leave are subject to bargaining and are included in the collective agreements. As a general rule, injury-on-duty leave is limited to 130 working days. When this period expires, the department must decide whether to extend the leave. Where the department terminates the leave, the employee becomes eligible for benefits pursuant to the Government Employees Compensation Act.

5. Workers' compensation

In addition to paid injury-on-duty leave, Public Service employees are entitled to benefits when they suffer from permanent total or partial disability. Rather than set up its own compensation and medical treatment plan, the federal government makes use of services available through provincial workers' compensation boards. The federal government provides these benefits to employees in accordance with the Government Employees Compensation Act by reimbursing provincial governments for the amounts they spend for services rendered. A totally disabled employee may receive up to seventy-five per cent of his annual salary, subject to the maximum set by each provincial board. In the case of permanent partial disability, a pension is provided in proportion to the degree of disability over the duration of the disability, regardless of whether the employee can return to work or not.

In 1975-76, the number of injuries-on-duty reached 22,629, 13,210 of which resulted in a disability. The direct costs of these accidents amounted to $9,267,675, $6,075,817 of which was attributable to injury-on-duty leave. The remainder included pension payments, administrative charges and rehabilitation costs incurred by the provincial workers' compensation boards.

3. IMPLEMENTATION OF ARTICLES 6-9 WITHIN THE CANADIAN FORCES

Article 6: The Right to Work

The Canadian Forces consist entirely of volunteer members. Article 6.01 of the Queen's Regulations and Orders for the Canadian Forces states the qualifications for enrolment. The main provisions are that a person must be a Canadian citizen, be of good character, and have reached his seventeenth birthday.

Women are allowed into all trades and officer classifications with the exception of those involving the possibility of combat operations and the Roman Catholic Chaplain classification. Some of the trades and some of the officer classifications which are open to women must include a certain percentage of men.

Officers and men may be released from the Canadian Forces for a variety of reasons but these releases would not normally be classified as arbitrary termination of employment. Article 15.01 of the Queen's Regulations and Orders for the Canadian Forces details the various reasons for release. Officers and men may be dismissed or released for "misconduct"; their service may be terminated because of "unsatisfactory conduct" or "unsatisfactory performance";

they may also be released for medical reasons, or on their own volition, or upon reaching retirement age, or as a consequence of a reduction in strength of the Force. An administrative redress procedure is available to counter arbitrary termination of employment.

Article 7: The Right to Just and Favourable Conditions of Work

Rates of pay for members of the Canadian Forces are approved by Treasury Board largely on the basis of a comparison with equivalent working positions within the federal Public Service. Additional allowances are paid to compensate for unfavourable working conditions - examples are: sea duty allowance, submarine allowance, isolation allowance, and field operations allowance.

Promotion is on the basis of seniority and competence. The Canadian Forces Administrative Order 49-4 contains the career policy for enlisted personnel. The Canadian Forces Administrative Order 11-6 contains the promotion policy for officers. These orders specify eligibility criteria for reclassifications, appointments and promotions.

Although most members of the Canadian Forces normally work normal office hours or normal shift hours, any member may be required to work unpaid overtime at any time. Chapter 16 of the Queen's Regulations and Orders for the Canadian Forces contains the basic Canadian Forces policy concerning leave. An officer or man of the Regular Forces is entitled to annual leave equivalent to twenty working days after one year and to twenty five working days after five years of service. Leave or absence may be granted on various other occasions.

An examination of statistics of military deaths due to accidents and military hospitalization due to accidents (in both cases on and off duty) indicate a steady decline in casualties in both categories in recent years. In 1976, there occurred 61 military deaths due to accidents compared to 98 in 1971. Military hospitalizations due to accidents numbered 2,233 in 1976 compared to 2,909 in 1971.

Article 8: Trade Union Rights

Members of the Canadian Forces are not allowed to join trade unions or to strike. In the armed forces, strikes are called mutinies. Mutiny is defined in the National Defence Act as "collective insubordination or a combination of two or more persons in the resistance of lawful authority..."

Members of the Canadian Forces do have an internal grievance procedure available to them which compensates for the loss of trade union rights. The procedure is specified in

Articles 19.26 and 19.27 of the Queen's Regulations and Orders for the Canadian Forces.

Article 9: Right to Social Security

Members of the Canadian Forces are entitled to complete medical care under Chapter 34 of the Queen's Regulations and Orders for the Canadian Forces and to complete dental care, under Chapter 35, at public expense. A member is entitled to full pay and allowances while he is in the forces. There is, therefore, no need for sickness insurance at that time. Some members have spent several months in hospital at public expense on full pay and then returned to perform years of useful service.

THE NORTHWEST TERRITORIES AND THE YUKON TERRITORY

Introduction

The two territories, established under the "Temporary Government of Rupert's Land Act, 1869" (various Acts applicable to the Northwest Territories were consolidated into a Northwest Territories Act in 1875) and the "Yukon Act, 1898", are unique government structures to Canada in that their governments are headed by appointed Canadian Government officials, Commissioners, (as chief executive officers), supported by fully elected Legislative Assemblies. The provincial-type subjects on which the territorial legislatures may legislate are stipulated in the respective territorial acts and are similar to those given to the provinces by the British North America Act, 1867 except for resources other than game. The Commissioner of the Northwest Territories submits the territorial government's legislative program to the Minister of Indian Affairs and Northern Development for policy review prior to its introduction in the territorial Assembly. The Yukon Commissioner, on the other hand, submits to the Minister for review, only proposed legislation in a select subject area which may present a conflict with federal policy or legislation. This, of course, does not prevent individual Legislative Assembly members of either territory from introducing private member's bills, provided they are not "money bills". In addition, the Minister may request the Commissioner to refuse or reserve assent to any bill conflicting with federal legislation or policies. The Governor in Council can disallow any ordinance within one year of its passage by the territorial legislature.

Legally speaking, this federal-territorial relationship differs from that with the provinces, where the provinces have full responsible government. Indeed, the Yukon Act requires the Commissioner to follow instructions issued from time to time by the Minister or the Governor in Council. However, on October 9, 1979, the Minister instructed the Commissioner to consider herself bound by the advice of the Yukon legislature. The Minister has also instructed the Commissioner to establish an Executive Council composed exclusively of elected representatives. This, in effect, has given the Yukon Territory a measure of responsible government short of provincehood. The members of the Executive Council are nominated by the Government Leader (leader of the governing political party) for appointment by the Commissioner. The Minister has also instructed the Commissioner of the Northwest Territories to increase the size of the Executive Committee to include more elected members; however, they remain appointed by the Commissioner on nomination by the Legislative Assembly.

The two territorial Legislative Assemblies have enacted specific ordinances in the general areas of Articles 6 to 9 of the International Covenant on Economic, Social and Cultural Rights. In addition, several ordinances require that regulations be set out under the authority of the Commissioner. For instance, the Yukon Labour Standards Ordinance requires that the Commissioner regulate the minimum number of hours to be charged when an employee is called back to work and the amount of money charged to employees for room and board provided by employers.

1. THE NORTHWEST TERRITORIES

Article 6: The Right to Work

A- Principal Laws, etc...

A number of ordinances are in place in the Northwest Territories which are designed to promote and safeguard the right to work as defined in this Article. These are ordinances regulating the qualifications for entering into various trades and professions. In addition, the Fair Practices Ordinance prohibits discrimination on the part of employers. The preamble of the Ordinance is relevant to this report.

> "Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;
>
> And whereas it is public policy in the Northwest Territories that every man and woman is free and equal in dignity and rights without regard to race, creed, colour, sex, marital status, nationality, ancestry or place of origin;
>
> Now therefore, the Commissioner of the Northwest Territories, by and with the advice and consent of the Council of the said Territories, enacts as follows:"

The Ordinance prohibits employers from discriminating with respect to employment or conditions of employment on grounds of race, creed, colour, sex, marital status, nationality, ancestry or place of origin. The prohibition also applies to advertising, application forms, interview questions, written or oral, and admission to trade unions.

B-1: The Right of Every Person to Gain One's Living by Work Which He or She Freely Chooses

There are no territorial ordinances intended to prevent any person from gaining one's living by work which he or she freely chooses or accepts, provided he or she possesses the qualifications required to practise the trade or profession. The Fair Practices Ordinance (see section A) exists to guarantee against discrimination on the part of employers towards prospective employees. Qualifications for professionals licensed to work in the territory are defined in such ordinances as the Dental Mechanics Ordinance, the Dental Profession Ordinance, the Legal Profession Ordinance, and the Medical Profession Ordinance. These qualifications are intended to protect the public through maintenance of uniform standards of practice and service.

B-2: Policies and Techniques to Achieve Steady Economic, Social and Cultural Development...

The Northwest Territories has taken advantage of expanded provisions of the federal Department of Regional Economic Expansion's programs through agreements which provide new opportunities for northerners. The new approach in the North for the expanded programs is to emphasize both economic development and social adjustment, and, through consultations with native groups, bring about improvements in the economic position and role of the native people in northern society. Two examples of these assistance programs in the Northwest Territories are the Regional Development Incentives Act program and the Special Rural Development Agreement (Special ARDA).

The Regional Development Incentives program, funded and administered directly by the Department of Regional Economic Expansion, is designed to create improved opportunities for productive employment through incentive support for industrial and commercial facilities. Development incentive grants and loan guarantees may be offered to encourage manufacturing and processing industries to establish, modernize, or expand in the Northwest Territories. Grants up to 25 percent of the approved capital costs, plus up to $5,000 for each direct new job created are available. Loan guarantees are also available to commercial enterprises such as business offices, warehousing and freight-handling facilities, shopping centres, hotels, motels, convention centres and recreation or research facilities.

Jointly administered and funded by the Department of Regional Economic Expansion and the Territorial Government, the objective of the Special ARDA program is to assist in the economic development and social adjustment of residents of the Northwest Territories, particularly those of Indian and Inuit ancestry. This agreement, signed on June 16, 1977, is a five-year program. Assistance is provided to projects which open up new jobs, increase income levels and encourage social advancement for people throughout the Northwest Territories. Emphasis is placed on responding to community initiatives by encouraging new ventures involving the development of local resources and services.

There are three major components of the Special ARDA program. The first provides incentive grants to applicants who wish to establish, acquire, expand, or modernize business, including manufacturing, processing and service enterprises. These enterprises are expected to create new employment opportunities for people of Indian and Inuit ancestry.

The second component offers assistance to primary producers such as trappers and fishermen. This assistance is offered as grants for the purchase of essential equipment and for improvements of facilities used in basic harvesting activities. The assistance is intended to enable primary producers to improve upon their income potential.

The third element of the Special ARDA program is for counselling, training and special social services, not available under other federal or territorial programs, which are needed to help people of Indian and Inuit ancestry take advantage of job opportunities.

Applications for assistance are submitted to a Special ARDA Committee, made up of representatives of the federal and territorial governments and the native people, for review and recommendations for approval.

B-3: Organization of the Employment Market

Offices of the Federal Employment and Immigration Commission are maintained in the Northwest Territories to assist residents seeking employment, as they are throughout Canada. The Northwest Territories has enacted the Employment Agencies Ordinance which prohibits the establishment of private employment agencies except those which do not charge prospective employees fees.

B-4: Technical and Vocational Guidance and Training Programs

In October 1976, the Northwest Territories Legislative Assembly passed the Apprentices and Tradesmen Ordinance which established a supervisory board over the apprentice program. Under the Ordinance, an elected Executive Committee Member of the Government of the Northwest Territories is assigned the responsibility for the apprentice program. The Executive Committee Member appoints a Supervisor of Apprenticeship Programs. The duties of the Supervisor are to:

(a) register all apprentices;
(b) file all contracts of apprenticeship and keep a record of all cancellations, terminations, transfers and completions of such contracts;
(c) provide courses of instruction for training;
(d) provide periodic trade tests for apprentices and final examinations;

(e) supervise the training of all apprentices;
(f) inspect and approve facilities used for training, and
(g) provide information and make investigations as the Board requires.

The Apprentices' and Tradesmen's Qualifications Board, which consists of five appointed members, is set up to hear all appeals submitted to it, make recommendations respecting the training and certification of persons in designated trades, and to review recommendations of trade advisory committees with respect to training and qualifications of persons in trades.

In addition, revisions to the Northwest Territories Education Ordinance, also passed by the Northwest Territories Legislative Assembly in October 1976, provide for adult education programs as a means of improving qualifications and upgrading skills.

The Government of Canada manpower programs and retraining programs also apply within the Northwest Territories.

There is no legislation in the territory which provides for education leave from employment. However, some northern employers recognize the need and provide this type of leave on their own volition or through collective agreements with employee associations.

B-5: Arbitrary Termination of Employment

In the Northwest Territories, appeals against arbitrary termination of employment may be pursued through the Labour Standards Board (in cases of discharge because of an employee's testimony under the Labour Standards Ordinance, or because the employee has given information on matters dealt with in the Ordinance) or through civil suit in courts (in same or other cases).

B-6: Protection Against Unemployment

Canada's Unemployment Insurance program also applies in the Northwest Territories. Please refer to the appropriate section of Canada's report for information respecting this program.

Article 7: The Right to Just and Favourable Conditions of Work

The major ordinance governing working conditions and terms of employment in the Northwest Territories is the Labour Standards Ordinance. Employees of the territorial government have their conditions of work set out under the Northwest Territories Public Service Ordinance.

A- Remuneration

The Labour Standards Ordinance sets out the minimum wages payable by employers. Workers on projects funded by the Government of Canada are subject to federal wage standards which differ from the territorial rate as illustrated in the following chart.

Minimum Hourly Wages for Employees Age 17 Years and Above

Year	Northwest Territories	Canada (Federal)
1970	$1.50	$1.65
1971	$1.50	$1.75
1972	$1.50	$1.90
1973	$2.00	$1.90
1974	$2.50	$2.20
1975	$2.50	$2.60
1976	$3.00	$2.90
1977	$3.00	$2.90
1978	$3.00	$2.90

In 1976, the Legislative Assembly of the Northwest Territories amended the Labour Standards Ordinance to provide increased protection of workers' wages through a Labour Standards Board. Under the new provisions, the Board can rule regarding wages owed an employee when a dispute arises. The new arrangements also designate wages owing a priority lien against an employer whether bankrupt or not. In addition, the Board can act as official recipient of employees' wages and must attempt to locate the employee in such cases in order to pay the employee monies owed for wages.

Equal pay for equal work provisions are contained in the Fair Practices Ordinance. These provisions are designed to ensure that female employees are paid at the same rate as male employees of the same employer for similar or substantially similar work.

B- Safe and Healthy Working Conditions

There are a number of ordinances in place in the Northwest Territories which affect the health and safety of workers in the work place such as the Public Health Ordinance, the Safety Ordinance, the Use of Explosive Ordinance and the Mining Safety Ordinance. The Mining Safety Ordinance requires that specific conditions exist in and around the mines to protect the workers, that employees be certified medically fit, that medical services are always available, and that trained rescue teams are present in all emergency situations. Employers are subject to penalty for violation of these ordinances.

C- Equal Opportunities for Promotion

There are no legislative measures other than the Public Service Ordinance which provide for opportunities of promotion in the work place. The Public Service Ordinance requires that competitions be held for positions among all persons qualified who wish to compete for positions vacant. Generally, promotion is based upon increasing qualifications by the worker and competing with all other eligible employees for positions.

D- Rest, Leisure, Limitation of Working Hours and Holidays with Pay

The principal legislative measure governing rest, leisure, working hours and paid holidays is the Labour Standards Ordinance. Unionized bargaining groups may achieve slightly different benefits in their individual collective agreements. The Labour Standards Ordinance, as amended October 1976, provides the following:

(i) Weekly Rest;

Each employee's scheduled hours of work must be such as to provide at least one full day's rest each week, preferably Sunday.

(ii) Normal Working Hours and Overtime;

The maximum hours of work is ten hours per day or fifty two hours per week. The maximum can be exceeded under conditions enumerated in the Ordinance. Where overtime is worked, the employee must be paid for the overtime at a rate of pay not less than one and one half times his regular rate of pay.

(iii) Holidays with Pay;

The Labour Standards Ordinance requires that every employer grant every employee two weeks paid vacation for every completed year of employment. Three weeks paid vacation must be given if the employee has been with the same employer for five years. The five years employment with the same employer must be accumulated within a ten year period following the first day of employment.

(iv) Remuneration for Public Holidays;

An employer is required to give his employees a paid holiday when one of the eight identified public holidays falls on a normal work day of the employee, provided the employee has worked for the employer at least thirty days within the previous twelve months. Employees who work on public holidays must be paid a minimum of twice their regular wage for that day.

Article 8: Trade Union Rights

A- Principal Laws, etc...

Territorial jurisdiction is residual, being limited to activities which do not fall within the ambit of Part V of the Canada Labour Code.

Only the Public Service Ordinance restricts or regulates trade union rights in the Northwest Territories (see Section F, below).

B- Right to Form and Join Trade Unions

There exists no restrictions in law to prevent anyone from forming or joining a trade union of his choice.

C- Right of Trade Unions to Federate

There are no restrictions of the rights of trade unions to form alliances with national or international trade unions.

D- Right of Trade Unions to Function Freely

Any trade union may function freely within the territory.

E- Right to Strike

The right to strike is recognized in the Northwest Territories for those trade unions certified pursuant to Part V of the Canada Labour Code. The right to strike is denied to the employees of the Government of the Northwest Territories by the Public Service Ordinance.

F- Special Restrictions on the Right to Strike

The Public Service Ordinance allows for the collective bargaining process between the territorial government and the employees union. However, should an impass occur in the bargaining process, the parties must go to arbitration under the terms of the Arbitration Ordinance without work stoppages. The Arbitration Ordinance provides that any arbitration award the arbitrator renders is binding on all parties.

Article 9: Right to Social Security

1. Principal Laws, etc...

Legislation passed by the Parliament of Canada is the predominant influence in providing social security in the Northwest Territories.

2-(a) Medical Care

The Federal Hospital Insurance and Diagnostic Services Act provides for federal financial support to the Territorial Government provided it has qualifying legislation. Such legislation in the Northwest Territories include the Medical Care Ordinance and the Territorial Hospital Insurance Ordinance. Virtually all residents of the Territories are covered under these plans, regardless of citizenship status, giving them access to needed medical and hospital care on a prepaid basis.

One ordinance passed by the Northwest Territories Legislative Assembly is directly related to the size of the territory and the distances of travel. The Emergency Medical Aid Ordinance protects medical practitioners and registered nurses or any other person who renders voluntary medical aid to an injured person at the scene of an accident from suit for injury or death of that person unless it is established that the injuries or death were caused by gross negligence.

(b) Cash Sickness Benefits

There are no government financial medical plans which provide cash during periods of illness. This type of benefit is available from private insurance companies. Other sources of cash during periods of illness are Canada's Unemployment Insurance, for those who qualify, and the various welfare programs for those who don't.

(c) Maternity Benefits

The Northwest Territories Labour Standards Ordinance requires employers to allow female employees up to six months maternity leave. Financial support during this period comes from Canada's Unemployment Insurance Commission. Please see the portion of the report dealing with the federal government for details concerning the Unemployment Insurance program.

(d) Invalidity Benefits

Canada's Unemployment Insurance Commission program provides coverage in this area.

(e) Old Age Benefits

The Old Age Security Plan and the Canada Pension Plan, administrated by the federal government, provide the major coverage. However, most large companies provide some form of retirement program for their employees.

(f) Survivors' Benefits

The Northwest Territories has a Workers' Compensation Ordinance which provides coverage to workers' dependants in the case of job-related death of the employee.

(g) Employment Injury Benefits

The Workers' Compensation Ordinance provides coverage for the worker in case of injury on the job.

(h) Unemployment Benefits

Canada's Unemployment Insurance Act provides the only legislated program with respect to unemployment insurance.

(i) Family Benefits

The Family Allowances Program, described in the federal part of this report, applies to families of the Northwest Territories. In addition, as outlined above under "Survivors' Benefits", the Workers' Compensation Ordinance offers protection to the family when the major wage earner is killed or injured on the job.

2. THE YUKON TERRITORY

Article 6: The Right to Work

A- Principal Laws, etc...

The Yukon Territory has enacted a number of ordinances designed to promote and safeguard the right to work as defined in Article 6. The ordinances, in addition to those defining or regulating the qualifications for practising a trade or profession, such as the Medical Profession Ordinance, include a Fair Practices Ordinance, an Apprentice Training Ordinance and an Occupational Training Ordinance.

The Fair Practices Ordinance identifies and disallows some discriminatory practices on the part of employers and trade unions. For example, section 3.1 of the Ordinance reads as follows:

> "No employer shall refuse to employ, or to continue to employ, a person or adversely discriminate in any term or condition of employment of such person, because of race, religion, religious creed, colour, ancestry, sex, marital status or ethnic or national origin."

Violations of this Ordinance can result in a fine of up to five hundred dollars. The Ordinance does not apply to employment of persons in domestic service in a private home, in non-profit organizations, or organizations intended to foster the welfare of religious or racial groups that are not operated for profit.

B-(1) The Right of Every Person to Gain One's Living by Work Which He or She Freely Chooses

The Yukon legislature has passed no ordinances which prevent any person from gaining his or her living by work which he or she freely chooses or accepts provided he or she possesses the qualifications required to practise the trade or profession. The Fair Practices Ordinance acts against discrimination (see section A, above). However, limitations imposed by other ordinances such as the Legal Profession Ordinance, the Dental Profession Ordinance and the Medical Profession Ordinance are intended to protect the public and preserve a high standard of service.

B-(2) Policies and Techniques to Achieve Steady Economic, Social and Cultural Development

In June of 1978, the Government of Canada and the Government of the Yukon Territory made announcements with respect to two regional economic development programs to be offered through the federal Department of Regional Economic Expansion; namely the Regional Development Incentives Act program and the Special Rural Development Agreement (Special ARDA).

The Regional Development Incentives program, funded and administered directly by the Department of Regional Economic Expansion, is designed to create opportunities for productive employment through incentives for industrial and commercial facilities. Development incentive grants and loan guarantees may be offered to encourage manufacturing and processing industries to establish, modernize, or expand in the Yukon. Grants of up to 25 percent of the approved capital costs plus up to $5,000 for each direct new job created, are available. Loan guarantees are also available to commercial enterprises.

The Special ARDA program is jointly administered and funded by the Government of the Yukon Territory and the Department of Regional Economic Expansion. The program's objective is to assist in the economic development and social adjustment of residents of the Yukon, particularly those of Indian ancestry.

There are three major components of the Special ARDA program. The first provides incentive grants to applicants who wish to establish, acquire, expand, or modernize business, including manufacturing, processing, and service enterprises. The second component offers assistance to primary producers such as trappers and fishermen. Counselling and training support make up the third part. Assistance is provided to projects expected to open up new jobs, increase income levels and encourage social advancement.

Special arrangements are being contemplated in relation to the Alaska Highway pipeline project. For territorial government contracts, usually construction projects, preferential hire of Yukon residents is provided for by virtue of regulations under the territorial Financial Administration Ordinance and a clause in the contract documents. Similar requirements are usually found in federal construction contracts in Northern Canada.

B-(3) Organization of the Employment Market

The Yukon Territory has enacted the Employment Agencies Ordinance which prohibits the establishment of private employment agencies except those which do not charge fees to the applicant or candidate for employment.

Offices of the federal Employment and Immigration Department are maintained in the Yukon Territory.

B-(4) Technical and Vocational Guidance & Training Programs

There are two ordinances passed by the Yukon Legislative Assembly related to occupational training; the Trades School Regulations Ordinance and the Occupational Training Ordinance.

The Trades School Regulations Ordinance requires all schools which teach a trade to be registered on an annual basis. The Registrar can inspect the school to observe the method of instruction, the business books, text books and circulars etc. to ensure that the school provides the instructions it advertises. A certificate can be issued or withheld depending on whether or not the Registrar is satisfied with the method of operation of the school. The Commissioner can issue a number of regulations pertaining to: security to be provided by the school operator; terms and conditions of enrolment and fee charging; the use of advertising; conduct, operation and management of the schools; accommodation, equipment and tools etc. to be used; and the selling and offering for sale of any course of instruction.

The Occupational Training Ordinance allows the Commissioner to enter into agreements with the Government of Canada, the government of a province, or any municipality, agency, organization, corporation or person, for the purpose of arranging for or providing programs related to occupational skills or improvement of the labour force.

B-(5) Arbitrary Termination of Employment

The Fair Practices Ordinance, in addition to disallowing discharge on grounds of discrimination, protects the workers from a complaint arising out of a violation of this ordinance.

Other avenues of appeal against arbitrary discharge are available through the civil courts.

B-(6) Protection Against Unemployment

Canada's Unemployment Insurance program applies to workers resident in the Yukon Territory. Please see the section of Canada's report pertaining to this program.

Article 7: The Right to Just and Favourable Conditions of Work

There are four ordinances in the Yukon Territory which govern terms and conditions of employment. The Labour Standards Ordinance applies to employment at large in the Territory, whereas the Public Service Ordinance, the Public Service Commission Ordinance, and the Public Service Staff Relations Ordinance are directed towards Territorial Government employees.

A- Remuneration

The Labour Standards Ordinance prescribes the minimum wages payable in the territory. This ordinance sets out the minimum wage in such a way as to eliminate the need for the Legislative Assembly to pass updating amendments. Section 11(1.1) of the Ordinance reads as follows:

> "In this Ordinance "minimum wage" means the amount of the sum of the amount of the minimum wage as set out in the Canada Labour Code as amended from time to time plus ten cents".

This translates as follows:

Year	Canada (Federal)	Yukon
1970	$1.65	$1.75
1971	$1.75	$1.85
1972	$1.90	$2.00
1973	$1.90	$2.00
1974	$2.20	$2.30
1975	$2.60	$2.70
1976	$2.90	$3.00
1977	$2.90	$3.00
1978	$2.90	$3.00

The Labour Standards Ordinance also contains a clause requiring that men and women be paid the same wage for the same job "...except where such payment is made pursuant to: (a) a seniority system; (b) a merit system; (c) a system that measures earnings by quality or quantity of production; or (d) a differential based on any factor other than sex".

The Labour Standards Officer can recommend that the Commissioner convene a Labour Standards Board to investigate and rule respecting possible violation by an employer of provisions of this ordinance.

The Public Service Ordinance gives the Commissioner authority to set the rates of pay applicable in the Public Service. The Public Service Commission Ordinance allows the Commissioner of the Territory authority to appoint a Public Service Commissioner. The Public Service Commissioner is authorized to conduct negotiations on behalf of the Territory with any bargaining agent authorized pursuant to any ordinance of the Territory. The Commissioner of the Territory, pursuant to this Ordinance and the Public Service Ordinance, sets the rates of pay for those public servants not included in bargaining units.

The Public Service Staff Relations Ordinance establishes the Public Service Staff Relations Board, which defines the bargaining units and conducts the bargaining processes in the name of the Commissioner, to determine working conditions and pay scales for unionized public servants.

B- Safe and Healthy Working Conditions

An example of legislation passed by the Yukon Territory to ensure safe and healthy working conditions is the Yukon Mining Safety Ordinance. Under this Ordinance, the Commissioner appoints an inspector, a Registrar of Miners' Medical Certificates, and Mine Rescue superintendants. Each have specific duties with regard to mine safety. The inspector, for instance, can require that all personnel be removed from a mine until such time as he is satisfied that mining safety regulations are being adhered to. The inspector has free access to the mines and can call upon any specialist to assist in his inspection, or act as a witness during a safety hearing. Some miners must obtain an annual medical certificate in order to continue employment. The mine superintendant is directly responsible for the supply and maintenance of mine rescue equipment. The cost of equipment and salaries of rescue personnel are charged to the mine owners. Every mine must also have a mine Safety Committee.

C- Equal Opportunities for Promotion

The Public Service Commission Ordinance provides a system of competition for vacant positions within the Yukon public service giving all qualified persons equal opportunity for promotion. The Fair Practices Ordinance and the Labour Standards Ordinance outlaw discrimination as referred to above in section A and Article 6.

D- Rest, Leisure, Limitation of Working Hours and Holidays with Pay

With the exception of specific groups (public servants, miners, unionized groups) the Labour Standards Ordinance sets out the minimum conditions and terms respecting rest, leisure, working hours and holidays which employers must allow. Other relevant ordinances are the Mine Safety Ordinance and the Public Service Staff Relations Ordinance.

(i) Weekly Rest

Each employee must be given at least one full day of rest. Public servants work a five day week, resting Saturday and Sunday.

(ii) Normal Working Hours and Overtime

Miners working underground cannot, except in cases of emergency, work in excess of eight hours within a twenty-four hour period. Public servants work a seven and one half hour day but are permitted to work overtime, provided they are paid one and one half their regular hourly wage or are given the equivalent in annual leave credit. The standard hours of work, as defined in the Labour Standards Ordinance, "...shall not exceed eight hours in a day and forty hours in a week."

(iii) Holidays with Pay

The Labour Standards Ordinance guarantees at least two weeks paid vacation in respect of every completed year of employment. Paid vacation is extended one day for each day of general holiday which falls upon a day of vacation. Public servants are subject to the bargaining process for determination of their paid vacation. It is presently three weeks paid vacation for every completed year's employment.

(iv) Public Holidays

Public holidays, referred to as general holidays in the Labour Standards Ordinance, are New Year's Day, Good Friday, Victoria Day, Dominion Day, Discovery Day, Labour Day, Thanksgiving Day, Remembrance Day, and Christmas Day. The following Monday is deemed to be the holiday when a general holiday falls on Sunday. The Public Service Ordinance gives the public servant, in addition to the above, Easter Monday, and two other days determined by the Governor in Council or the Commissioner to celebrate a general feast day and the Sovereign's Birthday.

Article 8: Trade Union Rights

A- Principal Laws, etc...

Territorial jurisdiction is residual, being limited to activities which do not fall within the ambit of Part V of the Canada Labour Code.

Only the Yukon Public Service Staff Relations Ordinance places any restrictions on the activities of unionized employees (see section E, below).

B- Right to Form and Join Trade Unions

There are no restrictions regarding the rights of any person in the Yukon Territory to join or form a trade union.

C- Right of Trade Unions to Federate

There are no legal restrictions regarding the rights of trade unions to form alliances with national or international trade unions.

D- Right of Trade Unions to Function Freely

Any trade union may carry on its legal activities within the Yukon Territory.

E- Right to Strike

Recognizing the right to strike of trade unions, the Yukon Territory has provided, in the Employment Agencies Ordinance, a provision forbidding employment agencies from supplying workers to replace workers who are on a legal strike. The Public Service Staff Relations Ordinance, while recognizing the rights of unionized employees to strike, has stipulated that persons occupying essential positions, though unionized, cannot participate in a legal strike carried on by their union.

Article 9: Right to Social Security

1- Principal Laws, etc...

The predominant influence in providing social security in the Yukon Territory is legislation passed by the Parliament of Canada.

2-(a) Medical Care

The Federal Hospital Insurance and Diagnostic Services Act provides federal financial support to the Yukon Government for medical expenses, provided it has passed qualifying legislation. The Yukon Health Care Insurance Plan Ordinance and the Hospital Insurance Services Ordinance qualify in this respect. All residents of the Yukon are covered under these plans which ensure access to needed medical services and hospital care on a prepaid basis. A monthly premium is charged to the residents to assist in support of these plans.

In addition to the above ordinances, the Yukon has passed the Emergency Medical Aid Ordinance and the Travel for Medical Treatment Ordinance. The Emergency Medical Aid Ordinance enables medical practitioners and members of the general public to render first aid in the case of accidents, without being subject to the risk of civil suit. The Travel for Medical Treatment Ordinance provides that a resident, upon recommendation of the Chief Medical Officer of Health, can be evacuated from a place of referral to a place where the required medical treatment is available. Travel expenses will be paid by the territorial government in these cases, as well as the expenses of an escort, where there is a need for one, to ensure the safe arrival of the patient.

2-(b) Cash Sickness Benefits

There are no government financial medical plans which ensure a continuation of salary or partial salary in the case of illness. Such plans are usually available from private insurance companies. Canada's Unemployment Insurance Commission provides some financial relief for those who are unemployed due to illness. For further details please refer to the appropriate portion of the federal government part of the report.

2-(c) Maternity Benefits

During periods of maternity leave an employee is entitled, if she qualifies, to receive from the Unemployment Insurance Commission the salary benefits available under the plan (please see the federal government part of the report).

2-(d) Invalidity Benefits

The territorial medical plans provide medical services, general and specialized, to invalids. Private and charitable agencies also support invalids through supplying and purchasing specialized equipment.

2-(e) Old Age Benefits

The Old Age Security Plan and the Canada Pension Plan, administered by the federal government, provide the major coverage for pensions. However, most large companies provide a retirement benefit plan on a shared contribution basis for their employees. A variety of private pension plans are also available to anyone in the territory through financial and insurance agencies.

2-(f) Survivors' Benefits

The Workers' Compensation Ordinance provides benefits to survivors of workers killed while on the job. An amendment to the Workers' Compensation Ordinance, passed in December 1977, sets out survivors' benefits as follows:

1) to a dependent widow or widower, a monthly payment of $275.00;

2) to a dependent child under 16, $10.00 a month until he or she reaches 16;

3) to a dependent invalid child of any age, $105.00 a month for as long as, in the opinion of a judge, the worker would have lived;

4) where the widower or widow dies, a referee will determine the amounts payable to foster parents for the care of surviving dependants;

5) common law husbands and wives receive the same benefits as a legal wife or husband if the common law relationship lasted at least three years prior to the worker's death.

2-(g) Employment Injury Benefits

The Workers' Compensation Board, as set up under the Workers' Compensation Ordinance, acts as the recipient of claims from workers for compensation against costs incurred by the worker as the result of injury on the job. The Board reviews the claim and awards compensation to the worker. Loss of salary is compensated for on the minimum in the amount of $50 dollars a week or his average weekly wages. Compensation payments can be made on a week by week basis.

2-(h) Unemployment Benefits

Canada's Unemployment Insurance Program encompasses workers in the Yukon Territory.

2-(i) Family Benefits

The Family Allowances Program, described in the Federal Part of this report, applies to families of the Yukon Territory. In addition, as described above under "Survivors' Benefits", the Workers' Compensation Ordinance provides benefits to the family of a worker killed while on the job.

PART III: MEASURES ADOPTED BY THE PROVINCES

1. ALBERTA*

INTRODUCTION

This report provides information on Alberta's legislation, practices and policies in light of Part III, Articles 6 - 9 of the International Covenant on Economic, Social, and Cultural Rights. Alberta's enforcement mechanisms and initiatives described in this report demonstrate the Province's compliance with and respect for the obligations and provisions of these Articles.

ARTICLE SIX: THE RIGHT TO WORK

A. Laws Which Safeguard the Right to Work

(1) In General

The Alberta Labour Act, 1973 (Appendix I**) and The Individual's Rights Protection Act (Appendix II) both contain provisions for safeguarding the right to work.

The Alberta Labour Act, 1973, in Section 22, prohibits the discharge or the restriction of employment or any other manner of discrimination in the event that a person questions, requests or demands anything to which he is entitled or has filed a complaint, testifies or makes a statement as required of that person under the Act, Parts 1, 2 and 3.

Under Sections 153 and 155, a person exercising rights or obligations under Part IV of the Act, is protected from discriminatory practices by employers or unions which have the effect of preventing a person from obtaining or retaining employment.

The Board of Industrial Relations has the general responsibility for administration of the Act, including substantial remedial powers.

Sections 6 of The Individual's Rights Protection Act provides protection against discrimination in employment on the basis of race, religious beliefs, colour, sex, physical characteristics, marital status, age, ancestry or place of origin. Section 7 of the Act prohibits the use of application forms and the publishing of advertisements relating to employment that expresses any limitation, specification or preference as to the race, religious beliefs, colour, sex, physical characteristics, age, ancestry or place of origin of any person, or that requires an applicant to furnish any information concerning race, religious beliefs, colour, sex, physical characteristics, ancestry or place of origin.

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* Report submitted by the Government of the Province of Alberta.

** The Appendices mentioned in this section refer to documents sent to the Secretary-General of the United Nations with the report. These were not reproduced in the report itself.

The Alberta Human Rights Commission is responsible for the administration of this Act. Its principal function is to investigate and to endeavour to effect settlement of complaints of any alleged contraventions.

The only exceptions are provided in Section 8 which excludes from the application of Sections 6 and 7:

(i) a domestic employed in a private home; or,
(ii) a farm employee who resides in the private home of the farmer who employs him.

(2) Right to Work (Children)

Section 41 of The Alberta Labour Act, 1973 prohibits the employment of a person under the age of 15 years without the written consent of the person's parent or guardian and the approval of the Board of Industrial Relations (Appendix III).

Regulation 318/74, under Section 41, permits persons 12 through 14 years of age to be employed in limited work activities, subject to specific time restrictions.

The Regulation also establishes certain conditions for the hours of work and work activities of persons 15 through 17 years of age.

Notwithstanding the right of individuals to a choice of employment, Section 98 permits a trade union and an employer or employer's organization to enter into a collective agreement whereby all the employees or any unit of employees of the employer or employer's organization are required to be members of a trade union.

(3) Protection Against Arbitrary Termination of Employment

The Alberta Labour Act, 1973 contains a number of provisions which protect employees against arbitrary dismissal. These include:

Section 22, cited earlier, prohibits the discharge, restriction of employment, and discrimination in any manner against a person availing himself of any rights under Parts 1, 2 and 3 of the Act, or who is required to testify or disclose information in any proceedings in connection with the Act.

Section 40 states that no employer shall dismiss, terminate, lay off or suspend an employee for the sole reason that garnishment proceedings are being or may be taken against the employee.

Section 49 (2) provides that a person does not lose employee status solely because he is involved in a strike or lockout or is dismissed contrary to the provisions of Part 4 of the Act.

Under Sections 153 and 155, individual employees are protected from arbitrary dismissal arising from their exercising the rights conferred upon them by Part 4 of the Act.

Pregnant women are specifically protected from termination of employment because of their condition by a Regulation under authority of Section 33.1 of The Alberta Labour Act, 1973 (Appendix XV).

Regulations under Section 38 of The Alberta Labour Act, 1973 set out the minimum notice required to terminate an employee (Appendix IV). The notice period varies with the employee's length of employment. Notice is not required where an employee is terminated for just cause.

Section 6 of The Individual's Rights Protection Act prohibits refusal to continue employment because of any prohibited form of discrimination.

In addition to the protection offered under The Alberta Labour Act, 1973 and The Individual's Rights Protection Act administered by the Department of Labour and its agencies, The Masters and Servants Act also provides a limited recourse for those who consider themselves improperly dismissed. Access to that legislation is available directly through the courts.

B. Steps Taken to Ensure the Right to Work

(1) Programs and Legislation

The Alberta Labour Act, 1973 and The Individual's Rights Protection Act ensure the right of all persons to work, free from discrimination, at a job of their choice so long as they meet the specific occupational requirements which are *bona fide* qualifications.

The Province has passed many acts in relation to education and training. Institutions established pursuant to these acts have largely been financed by the provincial government to ensure that a high standard and quality exists throughout and to ensure the availability of training to each individual member of society regardless of personal financial position.

The legislation creating technical and vocational training programs is primarily dealt with in the statutes creating secondary or higher educational programs.

(a) The School Act

This legislation (Appendix V) provides for compulsory universal primary education to the age of 16 years with provision for excusing the student at 15 years of age if no suitable program is available. In addition, the Act permits students governed by the Act (i.e. students between the ages of 6 and 21) to be involved in work experience programs during regular school hours for which they will be given credit as if attending classes.

(b) The Universities Act, The Colleges Act and The Banff Centre Act

This legislation (Appendix VI) governs public, board-governed institutions, which function apart from government, but are subject to defined controls by government. These controls are largely of a fiscal and program-control nature although it should be noted that government actually appoints the boards as well. The institutions themselves offer a wide range of learning experiences, including professional education and education in the fine arts and languages. The continuing education function, performed by these institutions, the government administered institutions and the private sector are another important aid toward achieving full and productive employment and economic, social and cultural development.

(c) The Department of Advanced Education and Manpower Act

This Act (Appendix VII) provides for the making of regulations for the distribution of monies appropriated by the legislature for the purpose of making grants towards advanced education. For example, Alberta Regulation 196/75 provides for Alberta Vocational Training Grants which provide the disabled and the disadvantaged with funds to pursue their education.

Under this Act, the Department Minister may make regulations for the establishment, operation, administration, and management of provincially administered educational institutions such as universities, public and private colleges, institutes of technology, agricultural and vocational colleges and vocational training centres. Also, the Minister may make regulations with regard to the programs and services provided by these institutions.

The Department established under this Act is also given the authority to coordinate the operation of colleges to ensure equal standards at all agricultural and vocational colleges with regard to the teaching of practical and scientific farming, household economy, and other matters relating to the agricultural and vocational colleges in Alberta.

(d) The Trade Schools Regulation Act

The purpose of this Act (Appendix VIII) is to require the registration of all trade schools operating in the Province. Under this, the Lieutenant Governor in Council may, among other things, make regulations:

(i) prescribing for any trade the minimum number of hours of instruction;
(ii) the maximum fees;
(iii) providing that no certificate of competency be issued unless a person has passed such examinations as the Regulations require;
(iv) generally as to the conduct, management and operation of a trade school and the nature of examinations for certifications of competency;
(v) prescribing the accommodation and equipment required and the means of instruction used;
(vi) regulating the selling of any course of instruction offered by a trade school; and,
(vii) generally, as to the conduct, operation, management and standard of education and all matters relating to security of the interests of students and the public.

The Act also provides that any trade school can be registered if it can satisfy the Minister that the school is provided with competent instructors and sufficient equipment for the teaching of any trade the school proposes to teach. Moreover, the Minister has the power to cancel the registration if he is satisfied after an investigation that the trade school does not meet the requirements under the Act or regulations.

(e) The Manpower Development Act

Section 2 of the Act (Appendix IX) sets out the duties of the Minister, namely, to ensure the provision of a comprehensive range of manpower services and programs by the Department of Advanced Education and Manpower.

Section 4 provides for the appointment of a "Director of Apprenticeship and Trade Certification" and such other employees as are required to carry out the provisions of the Act.

Section 6 sets up an "Apprenticeship and Trade Certification Board". Section 9 sets out Local Advisory Committees to advise the Board on matters relating to apprenticeship, training and certification in any trade, to review training programs and develop policies of accreditation where existing training programs in the educational system (such as vocational secondary schools), armed forces or other occupational preparation systems can be shown to meet the skill and knowledge requirements of a specific apprenticeship program.

In setting up this administrative system, the public and prospective students are ensured of a high calibre of training programs available generally to persons meeting the entrance requirements.

The Act, in Section 30, provides for the enacting of regulations governing the training and certification of workers engaged in trades. The regulations establish apprenticeship programs, and provide for eligibility qualifications of apprenticeship, terms of apprenticeship, instruction and practical training and issuance of a certificate of completion.

Regulations may also be made concerning the upgrading of workers in any trade.

(2) Financial Assistance

In Alberta, students at post-secondary institutions have financial assistance available. There are numerous private scholarships available of which the conditions for eligibility are usually scholastic achievment and/or financial need. Also, for specified groups and for the student population in general, various funds are made available on an interest-free loan until after graduation or bursary basis to bona fide students resident in Alberta. These funds are public and are therefore available upon application by any student meeting the requirements, which are most usually related to financial need.

(a) The Education of Servicemen's Children Act

This Act (Appendix X) makes money from the General Revenue Fund available to children of servicemen who die or were disabled as a result of military service.

These funds have been appropriated by the Legislature in order to enable these children to obtain a secondary education. This is consistent with the public policy of giving all members of society a relatively equal opportunity to obtain education. In Alberta, students are usually assisted in obtaining high school education by their parents. However, in this instance, a major income earner has been killed or disabled in serving the public. The government, in providing this special fund, is endeavouring to place these disadvantaged children into the same position (at least, financially) as their two-parented counterparts.

Under Section 3 (1), a Board is appointed by the Lieutenant Governor in Council to apply such money.

Under Section 3 (4), the child must reside in Alberta and must have done so for at least 10 years before the date of the application.

Section 3 (3) defines secondary education as including the education obtainable at an Alberta high school, agricultural or vocational college, or technical institute.

(b) The Students Finance Act

This Act permits money to be appropriated by the legislature for the purpose of assisting students by a loan, grant, bursary, prize, or scholarship.

Under Section 3, the Minister of Advanced Education and Manpower appoints a Student Finance Board to administer all programs established by order of the Lieutenant Governor in Council.

The Board, subject to regulations, may make loans to students attending public or private educational institutions from the Students Loan Fund; write off all or part of the outstanding student loan; or, using revenue from the Educational Opportunity Fund, pay off all or part of the outstanding loans made by chartered banks or treasury branches to students under the Canada Student Loans Act.

Section 8 provides that to become eligible for a loan, a person must be a bona fide resident of Alberta who is registered in a Board-approved course of studies, which include universities, colleges, the Banff Centre and technical institutes, and any high school in the Province.

Under Section 10, the Lieutenant Governor in Council may make regulations for the purpose of carrying out the objects of the Act, including the terms, conditions, forms, repayment and write-off of the various forms of assistance.

(c) The Students Loan Guarantee Act

The purpose of this Act (Appendix XI) is to guarantee the repayment to credit institutions of loans made to students under a certification of eligibility. This guarantee is such that the Province accepts the certificate in good faith and guarantees the repayment of the principal and interest. When the Province guarantees these loans, it ensures the availability of money to all students regardless of their credit rating. When a loan is paid out under this Act, the Province is subrogated to the rights of the credit institution. Regulations governing the administration of this Act are made by the Lieutenant Governor in Council.

(3) Developments Since January 1976

The Students Finance Act, 1976

This Act (Appendix XII) repeals the earlier Act and came into effect on January 1, 1977. This new Act re-enacts most of the old Act. Changes were made in that the Lieutenant Governor in Council may now assign to the Board the responsibility of overseeing the operation and administration of any program established for the purpose of assisting individuals to obtain education or training.

Thus, all financial assistance programs can now be administered by the same agency with the object of ensuring uniformity in policy and avoiding duplication of awards.

ARTICLE SEVEN: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

A. Remuneration

(1) Fair Wages

Sections 30 and 31 of The Alberta Labour Act, 1973 provide the Board of Industrial Relations with the authority to fix minimum wages.

The minimum wage may be based upon hourly, daily, weekly, or any other basis the Board deems appropriate. The wage is presently set at three distinct levels in recognition of the different employment needs of students and younger workers. The worker cannot agree to work for less than the minimum wage (Section 354) and the minimum is applied without any reference to an employee's sex.

The Industrial Wages Security Act (Appendix XIII) requires that employers in certain designated industries, prior to their commencement of operations in any given year, must file security for the payment of wages at least equivalent to the highest total paid monthly wages for the undertaking in the previous twelve months. The Minister is also empowered to obtain information he might require to assess the nature and stability of the employer's operation (Section 3).

(2) The Setting of Minimum Wage and Those Who Are Not Covered

The Board of Industrial Relations has the authority to fix minimum wages (See Part 7 (1)), and the parties themselves are free to agree upon higher wages and/or other terms and conditions of employment through the collective bargaining process. Minimum wage coverage does not extend to provincial government employees, farm workers employed in non-commercial undertakings, municipal policemen and those employed in domestic work in a private dwelling.

(3) Relationship of Minimum Wage and Cost of Living

Appendix XIV contains tables showing:

(a) the relationship between the index of the real Alberta minimum wage, selected industry wage rates, and the consumer price index;

(b) and the relationship between the index of Alberta's real minimum wage and those of other Canadian jurisdictions.

(4) Equal Pay for Equal Work

The Individual's Rights Protection Act (Section 5) prohibits wage differences based on sex where the work being done is "similar" or "substantially similar". The coverage of this Act ensures the illegality of any such provisions found in a collective agreement. Sections 17 to 26 of this Act provide the Human Rights Commission with the authority to enforce the provisions of the Act. (Appendix III).

Labour Standards regulations are applied equally to all workers, with no reference to sex (except Maternity Leave order, of course) (Appendix XV).

B. Safe and Healthy Working Conditions

(1) The Occupational Health and Safety Act

The Act (Appendix XVI) states that the health and safety of workers at the work site should be a responsibility shared by both employers and workers. The Act puts an obligation on the employers to ensure the health and safety of the employees. The workers are obliged to take reasonable care to protect their own and their fellow workers' health and safety. In addition, suppliers are obliged to ensure that the tools, appliances or equipment that they supply are in safe working condition.

In keeping with the government's goal of encouraging input from all interested groups, the Act establishes an Occupational Health and Safety Council comprised of representatives from labour, management, and the general public. The Council advises the Minister on matters concerning the health and safety of workers and hears appeals in accordance with the Act.

The Act provides for inspections which are carried out for the purpose of ensuring compliance with the provisions of the Act. When an Occupational Health and Safety Officer inspects a work site, he must be given access to the entire area on request. Officers may ask for copies of relevant documents, and may make samples of products, readings and photographs.

If the work site is not up to minimum standards, the employer can be ordered to comply with regulations. In unhealthy or unsafe situations, the Officer can order the work to stop. After the appropriate corrective action is taken, a follow-up inspection is conducted and the stop work order lifted.

When an accident occurs which results in serious injury or death, the employer or principal contractor is obliged to notify the Director of Inspection. An investigating Officer is sent immediately to examine the work site to determine the cause of the accident.

The Act also prohibits a worker from carrying out work where there exists an imminent danger to his or another worker's health and safety.

The Act gives the Lieutenant Governor in Council authority to make regulations respecting the health and safety of workers. Regulations now exist in the following areas: First Aid, General Accident Prevention, Construction Safety, Petroleum and Natural Gas Safety, Lumbering Safety, Explosives Safety, Grain Elevators Safety, and Joint Work Site Health and Safety Committee Regulations. Other regulations apply to the following areas: noise, occupational health, environmental standards, fibrosis of the lungs, lead and industrial radiography.

In addition to regulations, the Act makes provisions for codes of practice which specify certain safe procedures to be followed at a work site.

(2) Principal Arrangements and Procedures

The Alberta Government has created a separate Department of Workers' Health, Safety and Compensation to ensure the highest standards of safety are maintained in the workplace as well as compensate those who suffer injury through on-the-job accidents. To meet this objective, several specialized bodies within the Department have been charged with responsibility in specialized areas.

(a) The Occupational Health and Safety Division

The purpose of the Division is the prevention of work-related accidents and ill health, and the promotion of occupational health and safety. This is done through the coordinated delivery of services from six branches whose primary roles are to work closely with employers, workers and others in promoting, establishing, and maintaining healthful and safe work force environments and work practices, and a healthy work force. Other Division objectives are:

(i) to develop the full potential of and ensure that there is compliance with The Occupational Health and Safety Act and other legislation administered by the Division;

(ii) to develop and improve legislation, regulations, standards, guidelines, codes of practice and procedures to eliminate hazards;

(iii) to ensure that employers and workers are aware of and understand the occupational health and safety legislation and policies of the Alberta Government;

(iv) to prevent injury, ill health and genetic damage in workers and the public resulting from exposure to ionizing and non-ionizing radiation;

(v) to collect data, promote and carry out investigations and research for the purpose of identifying hazards and causes of accidents and determining ways by which accidents, injuries and ill health may be prevented.

N.B. Although it is not specifically stated, these objectives refer to occupational environments, work sites and work practices.

(b) The Inspection/Mines Branch

Branch Purpose

Administer and enforce The Occupational Health and Safety Act and Regulations by inspection, investigation and promotion to ensure compliance and understanding on the part of employers and workers.

Branch Objectives

(i) Conduct and document health and safety inspections and investigations at the work site connected with planned programs, selected accidents and expressed concerns.

(ii) Administer and enforce the Act and Regulations ensuring that a high degree of understanding and appreciation is left on the work site, and recommend revision to the legislation as required.

(iii) Provide input to standards-writing authorities; establish required jurisdictional agreements and understanding, and promote safe work procedures within industry.

(c) Laboratory Services Branch

Branch Purpose

To provide chemical laboratory service to people in Alberta working in the field of Occupational Health and Safety.

Branch Objectives

(i) To provide qualitative and quantitative analytical services for clients for: a) verifying identity and detecting toxic impurities of industrial materials; and, b) ascertaining exposure levels and biochemical effects on specific agents.

(ii) To provide technical information on detecting and monitoring toxic chemicals, to ensure suitable analytical methods are specified and used throughout the Province.

(d) Medical Services Branch

Branch Purpose

The identification and prevention of occupationally-related disease and disability within the working population of Alberta, and the general improvement of the health status of the working people.

Branch Objectives

(i) To promote the development and operation of occupational health services and monitor standards.

(ii) To establish, promote, implement, and evaluate occupational health monitoring regulations and guidelines, to encourage the development of needed training progams, and to provide an occupational medicine advisory service.

(iii) To promote the development and operation of occupational hearing conservation programs for workers, and to monitor compliance with related regulations.

(iv) To identify the distribution and determinants of occupational disease and injury frequency among Alberta's working population.

(v) To encourage workers in Alberta to improve their health status.

(vi) To promote, direct, and/or evaluate research and liaise with other organizations concerning occupational health safety research.

(e) Occupational Hygiene Branch

Branch Purpose

To ensure the protection of workers from health hazards associated with their work environment and work practices.

Branch Objectives

(i) To identify and evaluate occupational health hazards and to ensure control of those hazards through application and enforcement of The Occupational Health and Safety Act and Regulations.

(ii) To provide advisory, consultative and educational services and technical information on the control of occupational health hazards, and on the health effects of those hazards on the workers.

(iii) To undertake or promote investigations or research on occupational health hazards, the adequacy of standards, and the effectiveness of control methods.

(iv) To develop legislation, regulations, standards and guidelines relating to work environments and work practices.

(v) To promote the development of employer and consultant capability and expertise in the recognition, evaluation and control of occupational health hazards, and to regulate the monitoring of work environments undertaken by employers and/or consultants.

(f) Radiation Health Branch

Branch Purpose

The purpose of the Radiation Health Branch is to prevent injury, ill health and genetic damage in workers and the public resulting from exposure to ionizing (x-rays and gamma rays) and non-ionizing (lasers, microwaves and ultraviolet light) radiations.

Branch Objectives

(i) Administer the Provincial and Federal Radiation Acts and Regulations.

(ii) Respond to requests and identify needs related to radiological health prompted by public or political concern.

(iii) Provide advisory, consultative and educational services relating to radiation protection.

(g) Research and Education Branch

Branch Purpose

To promote occupational health and safety through the development, coordination and implementation of educational, consultative, and research activities.

Branch Objectives

(i) To provide resources to develop and carry out programs to encourage and educate employers, workers and other populations in the adoption of safe and healthful working practices, procedures and techniques.

(ii) To promote, carry out and evaluate research relating to occupational health and safety.

(iii) To sponsor and coordinate first aid training.

(iv) To coordinate the production and distribution of promotional activities and materials of the Division.

(v) To continue the development of an information resource centre.

(vi) To sponsor and coordinate a program to increase awareness in farm safety and health.

(3) New Programs Being Developed

The "Alive" Program

The Alive campaign was initiated in February 1979 and is scheduled to continue for the next two years. It is an integrated program aimed at promoting worker health and safety and includes television and radio advertisements, posters and other publications, and a mobile classroom/ exhibition unit which is touring the Province to bring the program to selected work sites.

Farm Safety Program

Two major categories of workers who are not subject to The Occupational Health and Safety Act are agricultural workers and domestic servants. Nevertheless, considerable progress has been made towards developing safety programs for agricultural workers. Some highlights are the following:

(a) farm safety workshops for farmers and their families;

(b) seminars for teenage farm workers participating in the Summer Farm Employment Program;

(c) primary school poster contest;

(d) stress workshops for farm families;

(e) grants to agricultural societies to promote farm safety; and,

(f) farm safety displays at agricultural fairs.

(4) Statistics on Occupational Accidents and Diseases

Statistical data on claims submitted for work-related injuries and illnesses are collected by the Workers' Compensation Board of Alberta, which covers an estimated 75 per cent of the employed labour force in the Province. Claims submitted include those for medical aid accidents (involving payments for medical treatment beyond first aid rendered), lost time accidents (where the worker is compensated for wages for time lost from work), permanent disability and fatalities. The Annual Reports of the Workers' Compensation Board present statistics for claims reported in each year, although about 7 per cent of these will eventually be rejected. Statistical exhibits from the 1976 and 1977 Annual Report are enclosed in Appendix XVII.

For each claim submitted a number of data elements are coded which describe the worker and the injury event, and attempt to pinpoint the accident in time and place. Worker-related information coded includes birthdate, occupation, experience with current employer, days per week worked and length of shift. The injury event is described using fields for part of body, nature of injury, accident type and source of injury, according to ANSI standard Z16.2. Other variables coded include industry of employer, date of accident, time of accident, and general area where accident occurred. Highlights of Workers' Compensation Board Claim Data for 1978 are included in Appendix XVIII.

The Research and Education Branch of the Occupational Health and Safety Division also produces a number of research reports based on data on occupational injuries and illnesses, often within a particular industry. These reports are generally made available to interested parties outside the Division. As an example, such a report focusing on the drilling industry is enclosed in Appendix XIX.

C. Equal Opportunity for Promotion

Section 6 of The Individual's Rights Protection Act prohibits discrimination on the basis of race, religious beliefs, colour, sex, physical characteristics, marital status, age, ancestry or place of origin "with regard to employment or any term or condition of employment", while acknowledging the legitimacy of a "refusal" based upon a bona fide occupational qualification.

Section 15 of The Public Service Act bases provincial public sector promotions on the merit principle, with particular reference to good work performance and self-development.

D. Rest, Leisure, Limitation of Working Hours and Holidays With Pay

(1) Hours of Work

Sections 23 to 29 of The Alberta Labour Act, 1973 limit hours of work and grant a wide range of powers to the Board of Industrial Relations for making and administrating hours of work regulations. In general:

(a) hours of work cannot exceed eight per day;

(b) hours of work cannot exceed forty-four in each period of seven days; and,

(c) hours of work must be confined to a period of ten hours, measured from the point of commencement of work.

Regular overtime may not be worked unless approved by the Board, or an emergency situation exists.

Unless the Board approves otherwise employees must receive 24 consecutive hours of rest in each period of seven days. In addition, employees must receive at least eight hours of rest between shifts where work is carried on in shifts.

The Board may grant permits for shorter work weeks or flex-time programs if it so desires. Such permits are usually granted where average weekly hours will not exceed forty-four, and where Occupational Health and Safety officials consider that no harmful effects upon safety and health will occur.

(2) Leisure

Section 36 of The Alberta Labour Act, 1973 gives the Board of Industrial Relations the authority to make regulations requiring that employers give employees paid vacations (Appendix IV). To date, two orders have been made.

(a) General Vacation Pay Order #31 (Appendix XX) - requires a two-week paid vacation every year for all employees outside the construction industry, or payments in lieu of for shorter periods of employment.

(b) Construction Industry Vacation Pay Order (Appendix XXI) - recognizes the unique nature of the industry by requiring payments in lieu of vacation time off for this particular industry.

Section 37 of The Alberta Labour Act, 1973 gives the Board of Industial Relations the authority to make regulations with respect to designation of and remuneration for general holidays (Appendix XXII). The General Holidays regulation requires that qualified employees:

(a) receive payment for a normal day of work when they do not work on such a holiday; or,

(b) receive premium pay for all time worked when they work on such a day, in addition to either a normal day's pay or a day off with pay at some other time in lieu of the holiday.

The peculiar nature of the construction industry is again recognized with a separate order requiring remuneration in lieu of time off (Appendix XXIII).

The standards contained in Board Orders are minimums only, and in no way prohibit the granting of more favourable conditions, either unilaterally by employers, or as a result of mutual agreement during the collective bargaining process.

(3) Continuous Operations

Section 26 of The Alberta Labour Act, 1973 gives the Board of Industrial Relations the authority to approve shift schedules where an employer's operations require that employees be present every day. Such shift schedules are considered under the rubric of the following criteria:

(a) there must be a bona fide need for the employer to operate a continuous operation;

(b) average weekly hours under the proposed schedule must not exceed statutory maximums;

(c) consecutive days of work must be in keeping with the nature and location of the work; and,

(d) there must be substantial employee support for the proposal.

The approval of a shift schedule does not in any way reduce an employees' vacation and general holiday pay entitlements.

(4) Enforcement Mechanism

Hours of Work, Minimum Wage and Rest and Leisure time provisions are uniformly enforced through the Province by the Board of Industrial Relations and the Labour Standards Branch of the Alberta Department of Labour. Branch or Board inspectors are empowered to conduct investigations with respect to such matters, (Sections 9 and 10, The Alberta Labour Act, 1973) and the Branch or the Board can and do enforce the Act and all regulations through either the provincial court system, (Sections 42 to 45, The Alberta Labour Act, 1973) or the legislated authority of the Board, as conditions dictate.

ARTICLE EIGHT: TRADE UNION RIGHTS

A. Principal Laws

(1) The Alberta Labour Act, 1973 is the primary law in the Province establishing trade union rights. Prosecution in the Courts for breaches of the Act's provisions is possible but may require the consent, in writing, of the Minister.

(2) The Firefighters and Policemen Labour Relations Act regulates collective bargaining for municipal police and firemen (Appendix XXIV).

(3) The Public Service Employee Relations Act governs collective bargaining for employees of the Provincial Government and certain Agencies of the Crown (Appendix XXV).

B. Right to Form and Join Trade Unions

The Alberta Labour Act, 1973, Section 66, extends explicitly to an employee the right to be a member of a trade union, to participate in its lawful activities, and to bargain collectively with his employer through a bargaining agent.

Excluded from this provision are the following:

Section 49 (1)(h)	(i)	a person who, in the opinion of the Board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations; or,
	(ii)	a person who is a member of the medical, dental, architectural, engineering or legal profession qualified to practice under the laws of Alberta and employed in his professional capacity.
Section 2 (2)(b)		employers and employees in respect of whom this Act does not apply by virtue of a provision of another Act.

Section 73 (1) prohibits employer domination or influence in the administration, management or policy of a trade union.

Section 73 (2): a trade union may not be certified where union membership is obtained as a direct result of picketing.

Section 153 prohibits employer actions which would inhibit the legitimate exercise of the right of persons to freely form and join trade unions.

Section 155 prohibits discriminatory practices by a trade union which prevent or interfere with the exercise of individual rights and obligations under the Act.

Organizing activities at an employee's place of employment during working hours without the consent of the employer are also prohibited under this Section.

C. Right of Trade Unions to Federate

Alberta legislation does not contain any limitation or restriction governing the right of trade unions to join national federations or confederations and the right of the latter to form and join international trade union organizations.

D. Right of Trade Unions to Function Freely

Section 58 (1) states that for the purposes of the Act, a trade union is capable of prosecuting and of being prosecuted, and suing and being sued.

Section 58 (2) states that a trade union and its acts not deemed to be unlawful by reason only that one or more of its objects or purposes are in restraint of trade.

Section 98 permits an employer and a trade union to continue or enter into a collective agreement whereby all the employees or any unit of employees of the employer are required to be members of a trade union.

E. Right to Strike

Sections 104 to 130 state that trade unions are permitted to strike and employers permitted to lockout only where the mandatory collective bargaining procedures under the Act have been followed and completed.

The procedures include:

(1) conciliation activities provided by Department of Labour personnel; and,

(2) a strike or lockout vote and at least 2 working days notice prior to the commencement of the strike or lockout.

Sections 67 to 81 state that a trade union may acquire formal status as the exclusive bargaining agent for a unit of employees by application to and certification by the

Board of Industrial Relations. This procedure effectively eliminates the need for employees to engage in work stoppages or other economic sanctions in order to gain employer recognition.

Section 138 of the Act requires that all collective agreements contain a method for the settlement of differences arising out of the terms of the collective agreement, without recourse to strike or lockout.

Where the collective agreement does not contain such method, the Act imposes a mandatory procedure for the settlement of differences by means of final and binding arbitration.

The right to strike or lockout may be curtailed in certain emergency situations.

> Section 163 (1) "Where in the opinion of the Lieutenant Governor in Council an emergency exists or may occur arising out of a dispute, in such circumstances that
>
> (a) damage to health or property is being caused or is likely to be caused because
>
> (i) a sewage system, plant or equipment or a water, heating, electrical or gas system plant or equipment has ceased to operate or is likely to cease to operate, or
>
> (ii) health services have been reduced, have ceased or are likely to be reduced or cease,
>
> or
>
> (b) unreasonable hardship is being caused or is likely to be caused to persons who are not parties to the dispute,
>
> the Lieutenant Governor in Council may, by order, declare that on and after a date fixed in the order all further action and procedures in the dispute are to be replaced by the emergency procedures under this section."

After an order is issued under Section 163 (1), any strike or lockout or other action in the dispute otherwise authorized or permitted under the Act in a dispute, becomes illegal.

Section 163 (4) requires the Minister to forthwith establish a procedure to assist the parties to reach a settlement and he is empowered to do whatever is necessary to settle the dispute.

F. Special Conditions Applicable to Public Employees

The Firefighters and Policemen Labour Relations Act (Appendix XXIV) regulates collective bargaining for municipal firefighters and municipal police forces.

Firefighters have the right to be members of a trade union and to bargain collectively with their employer.

Section 3 provides that policemen have the right to be members of a police association and to bargain collectively through a bargaining agent, but they may not remain or become a member of a trade union or organization that is affiliated directly or indirectly with a trade union.

Section 4 states that both firemen and policemen are prohibited from engaging in strike activities.

Sections 11 to 15 of the Act contain the procedure for the resolution of collective bargaining disputes through binding arbitration.

The Public Service Employee Relations Act (Appendix XXV) sets out the manner in which labour relations between the Crown in right of Alberta and those employed directly by the Province are to be conducted.

Under Section 17, an employee has the right to be a member of a trade union, to participate in its lawful activities and to bargain collectively with his employer through a bargaining agent.

The process of collective bargaining and obtaining bargaining rights is substantially similar to the provisions of The Alberta Labour Act, 1973.

The major distinction from The Alberta Labour Act, 1973 is that with the exception of those matters specified in Section 48, all matters which remain unresolved by collective bargaining are to be referred to arbitration. The arbitration award is binding on the bargaining agent, every employee and the employer. Sections 93 and 94 prohibit strikes and lockouts.

ARTICLE NINE: RIGHT TO SOCIAL SECURITY

A. Social Security Legislation of a General Nature

The Social Development Act

This Act (Appendix XXVI) establishes a social security program under which a social allowance is payable to any person within the Province, who is unable to provide basic necessities for himself and his dependents, in an amount which is sufficient to enable that person to obtain basic necessities.

The Preventive Social Services Act

This Act (Appendix XXVII) provides for both municipal and provincial preventive social services programs. The municipally based programs receive 80 per cent of their funding from the provincial government. These programs are oriented towards the promotion of well-being and the prevention of problems. The most significant of these programs is day care, which includes both the establishment of standards (under The Social Care Facilities Licensing Act) and a subsidy system based on a sliding fee schedule to ensure those in need receive assistance and that incentives exist for single parents to enter and remain in the labour force.

The Senior Citizens Benefits Act, 1975

This Act (Appendix XXVIII) provides for a monthly benefit to be paid to persons in receipt of a pension and a supplement under the Old Age Security Act (Canada) who are residents of Alberta. The Lieutenant Governor in Council may make regulations prescribing the manner and amounts to be paid.

The Pension Benefits Act

The Pension Benefits Act provides for the registration and supervision of privately administered pension plans to ensure protection of benefits for the plan participants.

B. Health Security

The Alberta Health Care Insurance Act (Appendix XXIX), Section 18, provides that for a specified minimum premium (which varies from zero to a given monthly amount on the basis of an individual's ability to pay (based on income tax earnings)), the Alberta Health Care Insurance Plan will pay a benefit with respect to the cost of "basic health services".

Under Section 2, "basic health services" include:

(1) all services rendered by physicians that are medically required;

(2) services of a dental oral surgeon that are deemed to be rendered by a physician; and,

(3) optometric services, opthalmological services.

The Lieutenant Governor in Council may make regulations:

(1) specifying the services that are basic health services and the manner in which benefits are to be paid;

(2) prescribing what is and what is not a "basic service"; and,

(3) providing for coverage of residents during temporary absences from Alberta.

The Minister of Hospitals and Medical Care, in consultation with the Alberta Medical Association prescribes the rates of benefits payable.

Under Section 19, a resident is not entitled to payment of benefits for basic health services while he is a member of the Armed Forces or the Royal Canadian Mounted Police or serving a term of incarceration in a federal penitentiary as these groups are covered under separate federal statutes.

Optional health services relating to hospitalization, medication and other services are provided for in the Regulations under The Alberta Health Care Insurance Act (Appendix XXX).

The Regulations also provide for the Extended Health Benefits Program for senior citizens, their spouses and dependents. Comprehensive dental care is covered along with the provision of eye glasses, hearing aids and medical surgical supplies and appliances. No premiums are payable under the Extended Health Benefits Plan.

The Alberta Hospitals Act (Appendix XXXI) provides for the establishment of hospital districts throughout the Province for building, furnishing and maintenance of hospitals. All hospitals are administered by local boards.

The Lieutenant Governor in Council can make regulations in connection with the :

(1) approval of location and design of hospitals;

(2) standards of service to be provided;

(3) admissions policies;

(4) establishment of schools and training programs for the training of hospital staff;

(5) disposal of human tissue; and,

(6) other matters as may be required.

Most hospital services which are medically required are covered by the Alberta Hospitalization Benefits Plan which is provided without charge to residents registered under the Alberta Health Care Insurance Plan.

Alberta has also enacted The Emergency Medical Aid Act which provides that, in an accident or emergency, where a physician or a registered nurse voluntarily and without expectation of compensation or reward renders medical services or first aid assistance not at a hospital or other place having adequate facilities, and any other person who voluntarily renders first aid assistance at the scene of the accident or emergency, they are all not liable for damages for injuries to or the death of a person to whom assistance is rendered unless it is rendered through gross negligence.

The Health Unit Act (Appendix XXXII) provides for the establishment of health units throughout the Province, each of which is administered by its own board and is funded totally by the Province.

The health units provide free immunization, well baby clinics, speech therapy, preventive dental services, and a variety of other community-based preventive health programs.

In addition, these health units may provide a home care program to persons who qualify medically. This program includes home nursing, homemaker, homehelp, meals on wheels and medical equipment.

Patients are entitled to these services free of any charge for a 2-week period, after which they are charged a user fee based on a sliding scale in accordance with income.

The Treatment Services Act (Appendix XXXIII) prescribes a variety of health programs which are available to specified classes of persons or to persons suffering from illnesses or conditions.

These programs include:

- rheumatoid arthritis
- poliomyelitis
- cleft palate
- diabetes
- handicapped children
- health services for senior citizens including:
    - eyeglasses
    - dental care and dentures
    - hearing aides
    - surgical supplies
    - medical equipment

All of these programs are provided to Alberta residents free of any charge.

C. Family Security

Under The Married Women's Act (Appendix XXXIV), property brought into the marriage by the husband or acquired after the marriage by the husband belongs to him, while property acquired by the wife belongs to her. Property includes both real property and personal property. The Act permits a married woman to acquire property and permits a married woman to be potentially liable in tort or contract, and, generally, legally accountable in all respects as if she were an unmarried woman.

Under The Dower Act (Appendix XXXV), dower rights are those given under the Act to the spouse of a married owner of real property. As a result, the owner may not dispose of his property without the written consent of his spouse. Consent may, however, be dispensed with by a judge where the owner and his spouse are living apart; where the spouse has not, since the marriage, lived in this Province; where the whereabouts of the spouse is unknown; where the owner has two or more homesteads; where the spouse has executed an agreement in writing for valuable consideration to release the claim to dower; or where the spouse is a mentally incompetent person or a person of unsound mind. An owner who disposes of homestead property, without spousal consent, is liable to his spouse for one-half of the consideration or of the value of the property upon the disposition, whichever is the greater. Also, a surviving spouse is entitled to a life estate in the homestead.

The Domestic Relations Act deals with matters incidental to marriage breakdown, including alimony and maintenance. Accordingly, maintenance may now be granted under both the federal Divorce Act and The Domestic Relations Act.

The Workers' Compensation Act provides for financial security in the event that an injury occurs during employment which subsequently results in an absence from employment.

The regulations provide that, where a worker is eligible for compensation, a certain proportion of his earned income will be paid while he is unable to work.

The Workers' Compensation Board has a large, very modern rehabilitation facility where injured and disabled workers can get treatment, physio and occupational therapy.

This Act provides that dependents of injured workers are entitled to compensation where a worker is himself entitled to compensation or it is demonstrated to the Board that a spouse or dependent children are without adequate means of support and are apt to become charge upon the government or upon the municipality where they reside or upon private charity; or where the dependents are not being supported by the worker and an order has been made against him by a court of competent jurisdiction for maintenance of the spouse or children by way of alimony, the compensation payable to the worker may be paid by the Board in whole or in part to or for the benefit of such spouse or children. Where a worker dies as the result of an accident, leaving no dependent spouse, or for the two years immediately preceding his death, cohabited with a dependent common law spouse by whom he had one or more children, the compensation to which a dependent spouse would have been entitled may, in the discretion of the Board, be paid to such common law spouse until such time as he or she marries. Upon the marriage of a common law spouse receiving compensation, the provisions of this Act apply with all necessary modifications as if that person were the widow or widower of the worker. A child for the purpose of this Act includes an illegitimate child, a grandchild and the child of a husband or wife by a former marriage, as well as any other child to whom the worker stood in loco parentis.

The Family Relief Act provides for an order to be made for maintenance and support. Where a person dies with a will but without making adequate provision in his will for the proper maintenance and support of his dependents; or dies intestate and the share under The Intestate Succession Act of the intestate's dependents is inadequate for their proper maintenance and support, a judge, on application, may in his discretion, notwithstanding the provisions of the will or The Intestate Succession Act, order that such provision as he deems adequate be made out of the estate of the deceased for the proper maintenance and support of the dependents. "Dependents" means the spouse of the deceased; children under 18 years of age or over and unable by reason of mental or physical disability to earn a livelihood. Moreover, a "child" includes: a child of a deceased born after the death of the deceased; an illegitimate child of a deceased man who has acknowledged the paternity of the child or has been declared to be the father of the child by an order under The Maintenance and Recovery Act (Appendix XXXVI), or any prior Act providing for affiliation or paternity orders; and an illegitimate child of a deceased woman.

The Child Welfare Act (Appendix XXXVII) provides for the protection of children in Alberta and imposes a statutory duty upon the Director of Child Welfare to investigate allegations that children may be in need of protection, and to see that protection is provided, where necessary, and to provide guidance counselling and other services to families for the protection of children. This Act also provides authority for the handicapped children's services program, foster care, care and treatment of juvenile delinquents, and adoption. These services are provided free of any charge to the family although the family may be required to pay maintenance for the child, if financially able to contribute.

Under The Infants Act, the Supreme Court of Alberta is permitted to make orders respecting real estate; assignments of leases and sale of personal property where an infant is involved. If the Court is of the opinion that a sale, lease or other disposition of real estate is necessary or proper for the maintenance or education of the infant or that for any cause the infant's interest requires or will be substantially promoted by such disposition, the Court may order such a disposition. The Act also permits orders for the maintenance or education of an infant, and the confirmation of a settlement of a claim or action in respect of an injury to the infant. Generally speaking, the Act seeks to protect an infant and to provide for his maintenance and education through judicial scrutiny of property matters.

The Maintenance Order Act (Appendix XXXVIII) provides for the maintenance of a disabled family member. The Act states that the husband, wife, father, mother and children of every old, blind, lame, mentally deficient person, or of any other destitute person who is not able to work, shall provide maintenance, including adequate food, clothing, medical aid and lodging for such person. The father of, and mother of, a child under the age of sixteen years shall provide maintenance, including adequate food, clothing, medical aid and lodging for such child. This section, however, does not impose a liability on a person to provide maintenance for another if he is unable to do so out of his own property or by means of his labour, nor does it impose a liability in favour of a person who is able to maintain himself. In order to enforce the above, a court can make a maintenance order.

The Maintenance and Recovery Act prescribes a legal procedure whereby the father of a child born out of wedlock may be ordered to provide maintenance for the child.

The Matrimonial Property Act (Appendix XXXIX) constitutes a major reform in the area of family law. It provides for an equitable distribution of property in the case of marital breakdown. Under the Act, "matrimonial property order" means a distribution of property made by a court upon application by a spouse.

A spouse may apply for such an order only if:

(a) the habitual residence of both spouses is Alberta;

(b) the last joint habitual residence is Alberta; or,

(c) the habitual residence at the time of marriage was Alberta.

The conditions precedent that must be present before a court can make such an order are as follows:

(a) a decree nisi or a declaration of nullity;

(b) a judgement of judicial separation;

(c) a situation in which the spouses have been living separate and apart for a continuous period of at least one year or for a period of less than a year where there is no possibility of reconciliation; or,

(d) where parties are living separate and one spouse has or intends to transfer property to a third party who is not a bona fide purchaser for value or intends to make a gift with the purpose of defeating a claim to property that the other spouse may have.

In any distribution, the court shall distribute the property "in such a manner as it considers just and equitable".

In making an order, the court is to assume at the outset that all property acquired by either party during the marriage is equally owned. However, the court may make an order which directs ownership otherwise. In order to determine whether the initial assumption of equal ownership is to be varied, the court may take the following matters into consideration:

(a) the contribution made by each spouse to the marriage;

(b) the contribution, whether financial or in some other form, made by each spouse directly or indirectly to the acquisition or improvement of a farm business or enterprise owned or operated by one or both of the spouses;

(c) the direct or indirect contribution to the acquisition of property;

(d) the income earning capacities of each spouse;

(e) the duration of the marriage;

(f) whether the property was acquired when the spouses lived separate and apart; and,

(g) any other factors that the court feels are relevant.

The court may then make an order to distribute the property. The court may order:

(a) a spouse to pay money or transfer an interest to another spouse;

(b) order that the property be sold and the proceeds be divided; or,

(c) declare that a spouse has an interest in property.

D. Benefits to the Handicapped

Under The Dependent Adults Act (Appendix XL), an interested person (including the Public Trustee or Public Guardian) may apply to Court for an order of guardianship in respect of a dependent adult unable

(a) to take care of himself; and,

(b) to make reasonable judgements in respect of all or any of the matters relating to his person.

The court order grants the plenary guardian the power and authority:

(a) to decide where the dependent adult is to live, whether permanently or temporarily;

(b) to decide with whom the dependent adult is to live and with whom the dependent adult is to consort;

(c) to decide whether the dependent adult should or should be permitted to engage in social activities and if so the nature and extent thereof and matters related thereto;

(d) to decide whether the dependent adult should or should be permitted to work and, if so, the nature of type of work, for whom he is to work, and matters related thereto;

(e) to decide whether the dependent adult should or should be permitted to take or participate in any educational, vocational or other training and, if so, the nature and extent thereof and matters related thereto;

(f) to decide whether the dependent adult should apply or should be permitted to apply for any licence, permit, approval or other training and, if so, the nature and extent thereof and matters related thereto;

(g) to commence any legal proceeding that does not relate to the estate of the dependent adult; and to compromise or settle any proceeding taken against the dependent adult that does not relate to his estate;

(h) to consent to any health care that is in the best interests of the dependent adult;

(i) to make normal day to day decisions on behalf of the dependent adult including the diet and dress of the dependent adult;

(j) to make such other decisions as can be made by a father in respect of a child under 14 years of age and that are not specified or referred to in clauses (a) to (j).

E. Maternity Benefits

The Board of Industrial Relations Order #71 (Appendix XV) governs the granting of maternity leave, and in general entitles qualified employees:

- to not more than twelve weeks unpaid leave prior to date of delivery;
- to not more than six weeks unpaid leave following actual termination of pregnancy;

and the employees

- cannot be terminated only because they have become pregnant; and,
- must be reinstated after maternity leave in a position at least comparable to that which they held prior to the leave, at an unreduced level of wages and other benefits.

The Maternity Leave Order does not require the granting of paid leave, but those taking such leave are entitled to benefits under the national Unemployment Insurance Program.

2. BRITISH COLUMBIA *

ARTICLE 6: RIGHT TO WORK

A. There are no laws in the Province of British Columbia that recognize the right to work as articulated in Article 6 of the Covenant. However, once employed there are 110 laws in the province that clearly enunciate the right of an employee to certain standards of working conditions. These statutes and regulations make up a comprehensive body of human rights, labour standards and industrial relations legislation that affect the employment relationship.

The principal acts administered by the Ministry of Labour or autonomous Boards, or those giving a person recourse to the Courts and discussed in this report are:

Human Rights Code of British Columbia (1973**)
Labour Code of British Columbia (1973)
Hours of Work Act (1960)
Minimum Wage Act (1960)
Payment of Wages Act (1962)
Factories Act (1966)
Annual and General Holidays Act (1960)
Apprenticeship and Training Development Act (1978)
Workers' Compensation Act (1968)
Employment Agencies Act (1960)
Control of Employment of Children Act (1960)
Deceived Workmen Act (1960)
Truck Act (R.S. 1960)
Maternity Protection Act (1966)

The acts, regulations, orders and other documents discussed in this part are not reproduced in this report. Many of them, however, are being sent to the Secretary-General of the United Nations with the report.

B. The Human Rights Code of British Columbia provides that everyone living in the Province has the right of equal opportunity and access to employment, tenancy, purchase or rental of property, public services, regardless of race, religion, sex, colour, ancestry, place of origin, age, marital status, political beliefs, or criminal convictions unrelated to employment.

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* Report prepared by the Government of the Province of British Columbia.

** British Columbia's Statutes were revised in 1979. The Revised Statutes of British Columbia, 1979 were published after completion of the present report.

It requires that people be hired and promoted on the basis of job qualifications and that trade unions and employers and occupational associations do not exclude any person from membership for discriminatory reasons, and that contracts be negotiated without reference to race, religion, sex, colour, ancestry, place of origin, age, marital status, political beliefs, or criminal convictions unrelated to the job.

The important sections of the Human Rights Code for employment opportunity and promotion are Sections 7, 8, and 9:

Discrimination in employment advertisements.

"7. No person shall use or circulate any form of application for employment, publish or cause to be published any advertisement in connection with employment or prospective employment, or make any written or oral inquiry of an applicant that

(a) expresses either directly or indirectly any limitation, specification, or preference as to the race, religion, colour, sex, marital status, age, ancestry, or place of origin of any person; or

(b) requires an applicant to furnish any information concerning race, religion, colour, ancestry, place of origin, or political belief."

Discrimination in respect of employment.

"8. (1) Every person has the right of equality of opportunity based upon bona fide qualifications in respect of his occupation or employment, or in respect of an intended occupation, employment, advancement, or promotion; and, without limiting the generality of the foregoing,

(a) no employer shall refuse to employ, or to continue to employ, or to advance or promote that person, or discriminate against that person in respect of employment or a condition of employment; and

(b) no employment agency shall refuse to refer him for employment,

unless reasonable cause exists for such refusal or discrimination.

(2) For the purposes of subsection (1),

(a) the race, religion, colour, age, marital status, ancestry, place of origin, or political belief of any person or class of persons shall not constitute reasonable cause;

(a1) a provision respecting Canadian citizenship in any Act constitutes reasonable cause;

(b) the sex of any person shall not constitute reasonable cause unless it relates to the maintenance of public decency;

(c) a conviction for a criminal or summary conviction charge shall not constitute reasonable cause unless such charge relates to the occupation or employment, or to the intended occupation, employment, advancement, or promotion, of a person.

(3) No provision of this section relating to age shall prohibit the operation of any term of a bona fide retirement, superannuation, or pension plan, or the terms or conditions of any bona fide group or employee insurance plan, or of any bona fide scheme based upon seniority."

Discrimination by trade unions and employers' and occupational associations.

"9. (1) Every person has the right of equality of opportunity based upon bona fide qualifications in respect of his occupation or employment, and in respect of his membership or intended membership in a trade union, employers' association, or occupational association; and, without limiting the generality of the foregoing, no trade union, employers' association, or occupational association shall, without reasonable cause in respect of such qualifications of that person,

(a) refuse membership to, expel, suspend, or otherwise discriminate against that person; or

(b) negotiate, on behalf of that person, an agreement that would discriminate against him contrary to this Act.

(2) For the purposes of subsection (1),

(a) the sex, race, religion, colour, age, marital status, ancestry, place of origin, or political belief of a person or class of persons shall not constitute reasonable cause; and

(b) the conviction of criminal or summary convictions charges shall not constitute reasonable cause unless charges relate to the occupation, employment, or membership, or to the intended occupation, employment, or membership of a person.

(3) No provision of this section relating to age shall prohibit the operation of any term of a bona fide retirement, superannuation, or pension plan, or the terms or conditions of any bona fide group or employee insurance plan, or of any bona fide scheme based upon seniority."

Section 2. (1) of the Labour Code of British Columbia provides that every employee is free to be a member of a trade union and to participate in its lawful activities.

The definition of "employee" for the purposes of the Act is as follows:

""employee" means a person employed by an employer, and includes a person engaged in police duties, and a dependent contractor included in an appropriate bargaining unit under section 48, but does not include a person who, in the opinion of the board (Labour Relations Board),

(i) is employed to exercise the functions, and does exercise the functions, of a manager or superintendent in the direction or control of employees, or

(ii) is employed in a confidential planning or advisory position in the development of management policy for the employer, or

(iii) is employed in a confidential capacity in matters relating to labour relations or personnel, or

(iv) is a teacher as defined in the Public Schools Act;"

Section 3 of the Labour Code outlines those acts of interference by an employer which constitute unfair labour practices:

"3. (1) No employer, and no person acting on behalf of an employer, shall participate in or interfere with the formation or administration of a trade union or contribute financial or other support to it; but an employer may, notwithstanding anything contained in this section, permit an employee or representative of a trade union to confer with him during working-hours, or to attend to the business of the trade union during working-hours, without deduction of time so occupied in the computation of the time worked for the employer and without deduction of wages for the time so occupied.

(2) No employer, and no person acting on behalf of an employer, shall

(a) discharge, suspend, transfer, layoff, or otherwise discipline an employee, or refuse to employ or continue to employ a person, or discriminate against a person in regard to employment, or a condition of employment, for the reason that the person

(i) is or proposes to become, or seeks to induce any other person to become, a member or officer of a trade union, or

(ii) participates in the promotion, formation, or administration of a trade union, or

(b) impose a condition in a contract of employment seeking to restrain an employee from exercising his rights under this Act, or

(c) seek by intimidation, by dismissal, by threat of dismissal, or by any other kind of threat, or by the imposition of a penalty, or by a promise, or by a

> wage increase, or by altering any other terms of employment, to compel or to induce an employee to refrain from becoming, or continuing to be, a member or officer or representative of a trade union, or
>
> (d) use, or authorize or permit the use of, a professional strike breaker or an organization of professional strike breakers, or
>
> (e) refuse to agree with a trade union, certified as the bargaining agent for his employees under this Act who have been engaged in collective bargaining with a view to concluding their first collective agreement, that all employees in the unit, including those who may not be members of the trade union, but excluding those exempted under section 11, will pay union dues from time to time to the trade union,
>
> but, except as expressly provided, nothing in this Act shall be so interpreted as to limit or otherwise affect the right of the employer
>
> (f) to suspend, transfer, lay off, or discharge an employee for proper cause, or
>
> (g) to communicate to an employee a statement of fact or opinion reasonably held with respect to the employer's business, or
>
> (h) to make any change in the operation of the employer's business reasonably necessary for the proper conduct of that business."

Section 5 of the Labour Code of British Columbia protects employees from coercive tactics by union officials, employers, or fellow employees. It reads:

> "5. No person shall use coercion or intimidation of any kind that could reasonably have the effect of compelling or inducing any person to become or refrain from becoming, or to continue or to cease to be, a member of a trade union."

In addition to its responsibilities related to the administration of human rights and labour statutes of the Province, the Ministry of Labour develops policies and strategies aimed at improving employment levels, employment conditions, and the industrial relations climate.

The Research and Planning Branch conducts studies in several areas of concern including manpower planning, labour standards, industrial relations, and health and safety. The Branch provides a monthly analysis of employment statistics, cost-of-living data, contract settlements, arbitration awards, and mediation reports.

The Employment Programs Branch is responsible for the administration of Provincial job-creation programs. The objective of the Branch is to reduce the disproportionately high unemployment rates among youth and disadvantaged in British Columbia by providing employment opportunities that will enable these groups to acquire the skills and related work experience required for full-time participation in the labour force. Towards this objective, the Branch has established and promoted direct employment programs for specific groups such as students and the physically disabled.

There is no Provincial employment service although in some communities there are private employment agencies. These agencies, if they provide workers for more than one employer, must be registered with the Ministry of Labour under the Employment Agencies Act. The federal government operates a national employment service.

Technical and Vocational Guidance and Training Programs

In the area of technical and vocational guidance and training programs, the Ministry of Labour's Apprenticeship and Industrial Training Branch is responsible for the promotion and operation of apprenticeship and industrial training throughout the Province, and for the certification of tradesmen.

The Branch supervises the on-the-job work experience of apprentices, assigns their in-school technical training, and prepares and conducts examinations to certify the competence of apprentices and tradesmen. It is also responsible for operating an extensive pre-apprentice, trades training program for young men and women seeking employment as apprentices.

The Branch works closely with vocational schools, colleges, school boards, the Ministry of Education, and Canada Manpower in the development of all training programs. Branch personnel periodically visit secondary schools to disseminate information about pre-apprenticeship and apprenticeship programs.

The Apprenticeship and Training Development Act regulates who may be employed in certain trades.

Section 21 of the Act reads:

Employment in certain designated trades.	"21. (1) The Lieutenant-Governor in Council may, by regulation, specify designated trades and require that persons hold a certificate of qualification to practice or be employed in a designated trade specified.
	(2) Notwithstanding subsection (1) and on application of a person primarily affected by a regulation made under subsection (1), the director of apprenticeship may investigate the applicability of the regulation to the person in the particular circumstances of his practice or employment and may grant him an exemption from the regulation on such terms and conditions as the director of apprenticeship may specify in the exemption."

The trades designated under this Act are the following:

1. General

   Automotive Body Repair
   Automotive Mechanical Repair
   Automotive Painting and Refinishing
   Automotive Parts Warehousing and Merchandising
   Automotive Radiator Manufacture and Repair
   Automotive Trimming
   Barbering
   Boilermaking
   Boilermaking (Erection)
   Bookbinding
   Bricklaying
   Carpentry
   Cement Masonry
   Cooking
   Domestic Radio and Television Servicing
   Drywall Finishing
   Electrical Work
   Embalming
   Floor Covering
   Glazing
   Hairdressing
   Heavy Duty Mechanical Repair
   Industrial Electrical Work
   Industrial Instrumentation
   Ironwork
   Jewellery Manufacture and Repair
   Joinery (Benchwork)
   Lithography

Lumber Manufacturing Industry - Benchman
Lumber Manufacturing Industry - Circular Saw Filer
Lumber Manufacturing Industry - Construction Millwright
Lumber Manufacturing Industry - Saw Fitter
Lumber Manufacturing Industry - Steam and Pipe Fitting
Machinist
Millwright
Moulding
Office Machine Repair
Oil Burner Repair
Painting and Decorating
Patternmaking
Piledriving and Bridgeman
Plastering
Plumbing
Refrigeration
Roofing, Damp and Waterproofing
Servicing and Repair of Electrical Appliances
Sheet Metal Work
Ship and Boatbuilding
Sign and Pictorial Painting
Sprinkler Fitting
Steamfitting and Pipefitting
Steel Fabrication
Wall and Ceiling Installation
Watch Repair

2. Compulsory Certificates of Qualification:

Plumbing
Refrigeration
Roofing, Damp and Waterproofing
Sheet Metal Work
Sprinkler Fitting
Steamfitting and Pipefitting

The Apprenticeship and Training Development Act outlines the obligations of both apprentices and employers under an apprenticeship agreement. Under Part 3 of the Apprenticeship and Training Development Act, all Trade-Schools must be registered and are subject to the conditions outlined therein.

Protection Against Arbitrary Termination of Employment

An employer can dismiss an employee not covered by a collective agreement and may be required to give reasonable notice or giving pay in place of notice. The employer does not have to give a reason. On the other hand employees covered by a collective agreement can only be dismissed for a just and reasonable cause.

Section 93 of the Labour Code of British Columbia reads:

Dismissal or arbitration provisions. "93. (1) Every collective agreement shall contain a provision governing the dismissal or discipline of an employee bound by the agreement, and that provision, or another provision, shall require that the employer have a just and reasonable cause for the dismissal or discipline of an employee; but nothing in this section shall prohibit the parties to a collective agreement from including therein a different provision for employment of certain employees on a probationary basis.

(2) Every collective agreement shall contain a provision for final and conclusive settlement without stoppage of work, by arbitration or such other method as may be agreed to by the parties, of all disputes between the persons bound by the agreement respecting its interpretation, application, operation, or any alleged violation of the agreement, including any question as to whether any matter is arbitrable.

(3) Where a collective agreement does not contain such a provision as is referred to in subsections (1) and (2), it shall be deemed to contain such of the following provisions as it does not contain:

(a) The employer shall not dismiss or discipline an employee bound by this agreement except for just and reasonable cause.

(b) Where a difference arises between the parties relating to the dismissal or discipline of an employee, or to the interpretation, application, operation, or alleged violation of this agreement, including any question as to whether a matter is arbitrable, either of the parties, without stoppage of work, may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference to arbitration, and the parties shall agree on a single arbitrator. The arbitrator shall hear and determine the difference, and shall issue a decision and the decision is final and binding upon the parties and any person affected by it."

The problem in the area of employees not covered by collective agreements is how much advance notice, if any, the employer must give. In British Columbia there is no statutory rule setting out what length of notice is required. The length of notice has generally been determined by considering the nature of the employment, the length of time the employee worked for the employer, the employee's age, the availability of similar employment, and the employee's experience and qualifications.

To recover money for wrongful dismissal, the employee must initiate a court proceeding. If the amount claimed does not exceed $1,000, the employee can sue in the Small Claims Division of the Provincial Court. However, wrongful dismissal cases usually involve more than $1,000 and the action is generally heard in the County or Supreme Courts.

Maternity Protection

The Maternity Protection Act, 1966 protects the job security of working women for sixteen weeks. It applies to all working women except women employed as domestics in private residences and women employed in farming and horticultural operations.

When a female employee delivers a doctor's certificate to her employer stating that she is pregnant and that birth will probably occur on a specified date, the employer must permit her to be absent from work "at any time or times chosen by the employee during the six week period immediately preceding the date."

After birth, the employer cannot permit the employee to work for six weeks, or a longer period if a doctor recommends. The employee must also deliver to the employer a doctor's certificate stating that she gave birth on a specified date.

Protection Against Unemployment

There is no legislative protection against unemployment in British Columbia.

There is, however, protection against persuasion to change employment by deceptive representation, false advertising or false pretenses under the Deceived Workmen Act.

The Deceived Workmen Act, enforced by civil court action, declares it unlawful for any person doing business in the Province of British Columbia to influence or persuade any person to change employment by means of deceptive representations, false advertising, or false pretenses concerning:

(a) the kind and character of the work to be done
(b) the amount and character of the wages to be paid for the work

(c) the sanitary or other conditions of employment

(d) the existence or non-existence of a strike or other trouble pending between the employer and employees.

C. Employment/Unemployment Statistics

Statistics on employment and unemployment are given in Appendix 1 to this report.

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

A. Remuneration

The Payment of Wages Act and the Minimum Wage Act are the principal laws designed to promote and safeguard the right to fair remuneration in its various aspects in British Columbia.

These acts are administered through the Ministry of Labour and a quasi-judicial body, the Board of Industrial Relations which is appointed under the Minimum Wage Act. The responsibilities of the Board of Industrial Relations include the establishment of orders and regulations governing conditions of employment; issuing of overtime permits and variance in hours of work; establishment of orders regulating the observance, and pay, for general holidays; and the issuing and enforcing of certificates for the recovery of unpaid wages.

The amount of wages an employee receives is a matter to be settled between the employee and the employer. The law only intervenes to establish a minimum in some cases. This minimum wage is set by the Lieutenant-Governor in Council, acting under the Minimum Wage Act. Each year the Board of Industrial Relations must review minimum wage rates and report to the Lieutenant-Governor in Council its recommendations respecting revision of the minimum wage rates. The Lieutenant-Governor in Council is not required to act on the recommendation.

The Board of Industrial Relations has the authority to exempt employees from the coverage of the Act, and to make orders covering different groups of employees. The Minimum Wage Act does not cover farm labourers and domestics and the Board has exempted many other employees from coverage. The major exemptions are:

(a) Employees whose employment is of a casual nature, otherwise than for the purposes of the employer's trade or business

(b) Artists, musicians, performers, and players

(c) Bus operators, while engaged in transporting people to and from schools and churches exclusively

(d) Student nurses in training in an approved school of nursing under the Registered Nurses Act

(e) Students employed in a school in which the student is enrolled

(f) Employees on boats for hire by a charter party

(g) Geophysicists and geophysicist trainees in the geophysical exploration industry

(h) Employees employed as watchmen or caretakers exclusively, except:

  (i) Patrolmen employed by a private patrol agency
  (ii) Caretakers of apartment buildings

(i) Policemen employed by a Board of Commissioners of Police and firemen employed by a paid fire department as defined in the Fire Departments Two-platoon Act

(j) Employees in the fishing industry, including:

  (i) Employees on boats or vessels
  (ii) Guards and fire wardens
  (iii) Campmen

(k) Employees in the logging industry, including:

  (i) Emergency fire-fighters and fire wardens
  (ii) Employees engaged exclusively in the transportation of men and supplies
  (iii) Employees on tugboats, except employees on boom boats, dozer boats, and camp tenders

(l) Employees entitled to practice a profession or calling under:

Architectural Profession Act
Chartered Accountants Act
Chiropody Act
Chiropractic Act
Dentistry Act
Engineering Profession Act, 1955
Insurance Act
Land Surveyors Act
Legal Professions Act, 1955
Medical Act
Naturopathic Physicians Act
Optometry Act
Real Estate Agents' Licensing Act
Securities Act
Veterinary Act

(m) Employees in managerial, supervisory, or confidential capacities, as long as the duties are entirely supervisory or managerial

(n) Teachers, as defined in the Public Schools Act

(o) Prospectors in the mining industry

(p) Practical nurse trainees employed by hospitals

(q) Commercial travellers

(r) Noon-hour supervisors, teacher aides, and supervision aides employed by boards of school trustees.

There are three minimum wage orders of the Board of Industrial Relations: a general order (MINIMUM WAGE ORDER 1 (1975)), an order respecting overtime (MINIMUM WAGE ORDER 3 (1976)), and a special order for resident caretakers (MINIMUM WAGE ORDER 2 (1975)).

All wages must be paid in the lawful currency of Canada, or by cheque or bill of exchange drawn upon a chartered bank or a credit union. All wages earned must be paid at least semi-monthly. A pay period for which wages are paid cannot be longer than sixteen consecutive calendar days (not working days), and the pay must be made within eight days after the end of the pay period.

When the employment relationship is terminated by the employer, all wages earned (including holiday pay) must be paid at the time of termination. When the termination is at the employee's initiative, the employer must make the final wage payment within six days after termination.

These rules apply to all employees working in employment regulated by the provincial laws of British Columbia except the following:

(a) Farm labourers, fruit-pickers, and domestic servants

(b) Employees who, in the opinion of the Board of Industrial Relations, are engaged in horticulture

(c) Teachers, as defined in the Public Schools Act

(d) An employee who is qualified in a profession, trade, or calling, and is licensed under the Architectural Profession Act, Chartered Accountants Act, Chiropractic Act, Dentistry Act, Engineering Profession Act, Insurance Act, Land Surveyors Act, Legal Professions Act, Medical Act, Naturopathic Physicians Act, Optometry Act, Podiatry Act, Real Estate Act, Securities Act, 1967, or Veterinary Medical Act, and who, as such employee, is engaged in the practice of such profession, trade, or calling, or an enrolled student under any of such acts.

Moreover, the Board of Industrial Relations, under the Payment of Wages Act, may exempt any employee or employer from these rules.

Employers of employees covered by the Minimum Wage Act of British Columbia must provide each employee with a written statement of wages when the employee is paid. This statement must set out the following:

(a) The employee's earnings for the unit of time for which payment of wages is made

(b) Any bonus or living allowance to which the employee is entitled

(c) The amount of each deduction from the earnings of the employee, as well as the purpose for which each deduction is made.

An employer may only deduct from an employee's wages amounts that the employee has authorized by wage assignment or that the law requires.

Employers must deduct and remit to the government an employee's income tax, contributions to the Canada pension plan, and unemployment insurance premiums. Employers must also deduct amounts authorized by an order of a court.

Employees may make wage assignments allowed by Section 4. (2) of the Payment of Wages Act.

Section 15. (1) of the Truck Act also allows certain wage assignments and enables the Board of Industrial Relations to authorize plans that are for the benefit of employees.

Under Section 13 of the Truck Act, employers are not allowed to deduct money from employee's wages (covered by the Truck Act) for the purchase of shares in any corporation.

In addition, Section 12 of the Truck Act prohibits automatic deductions for sharpening or repairing tools.

Employees covered by the general minimum wage order are also protected against deductions for accidental damage or unsatisfactory work. (Section 10, General Minimum Wage Order, 1975).

British Columbia has enacted laws which require that equal pay be given for equal work without discrimination on the grounds of sex. Section 6 of the Human Rights Code of British Columbia states the following:

Discrimination in wages.

"6. (1) No employer shall discriminate between his male and female employees by employing an employee of one sex for any work at a rate of pay that is less than the rate of pay at which an employee of the other sex is employed by that employer for similar or substantially similar work.

(2) For the purposes of subsection (1), the concept of skill, effort, and responsibility shall, subject to such factors in respect of pay rates as seniority systems, merit systems, and systems that measure earnings by quantity or quality of production, be used to determine what is similar or substantially similar work.

(3) A difference in the rate of pay between employees of different sexes based on any factor other than sex does not constitute a failure to comply with this section if the factor on which the difference is based would reasonably justify such a difference.

(4) No employer shall reduce the rate of pay of an employee in order to comply with this section.

(5) Where an employee is paid less than the rate of pay to which he is entitled under this section, he is entitled to recover from his employer, by action, the difference between the amount paid and the amount to which he was entitled, together with the costs, but

(a) no action shall be commenced later than twelve months from the termination of his services; and

(b) the action applies only to wages of an employee during the twelve-month period immediately preceding the date of the termination of his services, or the date of the commencement of his action, whichever date occurs first."

B. Safe and Healthy Working Conditions

The Factories Act, 1966, establishes the general standards for the protection of the safety and health of employees. This act applies to factories, shops, and offices as well as homework (work done by an employee at his/her premises). Sections 20 and 22, which define the employer's duty, read as follows:

> 20. Every employer shall, during working-hours, keep the factory, shop, or office and all passages and sanitary conveniences used in connection therewith and under his control properly lighted and heated so that they are not injurious to the health, safety, and comfort of the employees, and the owner of every building used as a factory, shop, or office shall at all times keep the building or the parts thereof under his control or used in common by the tenants or occupants of the building properly lighted and heated so as not to be injurious to the health, safety, or comfort of persons employed in the building or using or having access thereto.
>
> 22. No person shall operate a factory, shop or office wherein there exists any condition that endangers the health or safety of persons employed therein, and this section applies whether or not there is a contravention of another section of this Act."

This Act and the Occupational Environment Regulations made under it regulate the amount of light that an employer must provide, the temperature and purity of air that must be maintained, the space that must be allowed for each employee, and the type of lunchroom, restroom, and washroom facilities that must be provided.

The Act and the Regulations pursuant to the Act are administered by the Ministry of Labour's Occupational Environment Branch primarily through a program of field inspections to ensure that reasonable working conditions are being maintained in industrial establishments. Branch inspectors assess the adequacy of illumination systems, heating, make-up and exhaust systems, air-contamination controls, sanitation, and interior painting. Employees amenities related to comfort and personal hygiene, such as lunchrooms, washrooms, shower rooms, locker rooms, and seating provision, also receive priority.

In addition, the Occupational Environment Branch provides consultative services to employers, architects, consulting engineers and construction companies concerning performance standards for building services in proposed factories and other work places.

The Workers' Compensation Act provides that, in industries to which the Act applies, compensation shall be paid for any personal injury or death caused to a worker by an accident arising out of and in the course of employment.

By regulation under the Workers' Compensation Act, employers are required to maintain first-aid services and equipment and comply with the extensive safety and first-aid regulations established by the Workers' Compensation Board.

The act applies to employers and workers in the following industries:

(a) In or about the industries of communication, construction, fishing, lumbering, manufacturing, mining; production and distribution of electricity, gas or water; quarrying, retail stores, transportation, and wholesale establishments

(b) In or about the operation of most industrial undertakings

(c) In the non-industrial construction of buildings having a value of $5,000 or more

(d) In or about any of the industries or occupations incidental to or connected with any of the industries enumerated above, and in or about such other industries or occupations as may be determined by the board

(e) In any employment by or under the Crown in right of the province, including employment by any permanent board or commission in right of the province

(f) In any employment by a municipality, village municipality, urban employment by any board or commission having the management or conduct of any work or service on their behalf.

On the other hand, banks, insurance companies, and other financial institutions are not covered by the Workers' Compensation Act, nor are supervisors from out-of-province firms and workers employed on assessment work on mineral claims. A member of a corps of commissionaires is not covered unless employed in an industry covered by the act.

The following people are also not covered by the Workers' Compensation Act:

(a) People whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business

(b) Players, performers, and similar artists

(c) Outworkers

(d) Members of the family of the employer under the age of nineteen years or the wife or husband of the employer

(e) Employers who, having no place of business within the province, temporarily carry on business in the province, but do not employ any worker resident in the province.

C. Equal Opportunity for Promotion

See Article 6 part A, and, in particular, Section 8 of the Human Rights Code of British Columbia.

D. Rest, Leisure, Limitation of Working Hours, and Holidays with Pay

The principal laws designed to promote and safeguard the rights to rest, leisure, reasonable limitations of working hours, and periodic holidays with pay are:

The Hours of Work Act
The Minimum Wage Act
The Annual and General Holidays Act
The Fire Department Hours of Labour Act
The Fire Departments Two-platoon Act
The Coal Mines Regulation Act
The Mines Regulation Act
The Labour Regulation Act

The Hours of Work Act regulates the number of hours per day and per week that an employee may work. The general rule is that an employee may work a maximum of eight hours a day and forty-four hours a week.

This rule applies to the industrial undertakings listed in the schedule to the Act. These are generally all manufacturing, processing, construction, and service industries.

This general rule does not apply to persons employed in a confidential capacity or to persons holding a position of supervision or management, if they do not do work customarily done by other employees.

The hourly limit may also be exceeded in cases of accident, uncontrollable acts of nature, and in cases where urgent work must be done to a plant or machinery to avoid serious interference with the ordinary work of the business.

Where an employer and employee representatives agree or where it is the custom in the business to work less than eight hours one or more days a week, the employees may work nine hours on other days. The weekly limit must not, however, exceed forty-four hours.

The Board of Industrial Relations may allow longer daily and weekly hours if it is satisfied that extra hours are necessary to overcome emergency conditions that may arise and the extra hours are not contrary to the interests of the employees. This permission must be given to an employer in writing by the Board. Similar provisions are contained in minimum wage orders for industries and occupations not contained in the Hours of Work Act.

The Board also may make temporary and permanent exemptions. Some of the permanent exemptions are the following:

1. Bus operators
2. Lumber industry (Nine-hour night shifts are permitted.)
3. Logging
4. Fishing -- except:
    (a) Office employees in organized territory
    (b) Guards and fire wardens in organized territory
    (c) Store clerks, stockroom men, or commissary men, and oil-station attendants in organized territory
5. Cook and bunkhouses in unorganized territory
6. Engineers, operators, firemen, and oilers or greasers
7. Prospectors
8. Seasonal boxes and shooks for the months of June, July, August, and September to fill urgent orders
9. Drugstores (Employees may not work more than eighty-eight hours in any two successive weeks, but must not exceed forty-eight hours in any one week, or nine hours in any one day.)
10. Bakery salesmen (Deliverymen may exceed eight hours in the day, but in no case shall the weekly hours of work exceed forty-four.)
11. Retail florists (to surmount extraordinary conditions, which cannot reasonably be overcome otherwise; but the working hours must not exceed eighty-eight hours on the average in any two successive weeks)
12. Fresh fruit and vegetable industry
13. Truck drivers, swampers, and warehousemen -- as shall be necessary to meet the requirements of the transportation industry

14. Milk delivery (Drivers are permitted to work fifteen hours per week in excess of the general rule, provided that over a period of seven weeks no driver shall work more than 350 hours, nor more than ten hours in any one day.)

15. Commercial travellers

16. Geophysical exploration industry

17. Logging industry (Persons employed in the logging industry are permitted to work in excess of forty-four hours in any one week, but not in excess of eight hours in any one day, provided that during a period of two consecutive weeks the average weekly hours of work do not exceed forty-four.)

18. Pipeline construction, oil-well drilling, and service industries

19. Professionals

20. Resort hotels in unorganized territory (These employees may work up to ten hours in any one day and fifty-two hours in any one week, from June 1 to September 30, inclusive, in each year.) (Unorganized means not organized under the Municipalities Act of British Columbia.)

21. Mercantile industry (Employees may work eleven hours per day on either Friday or Saturday, and on the day preceding a statutory holiday when such statutory holiday occurs on a Saturday, but the total hours worked in any one week must not exceed forty-four.)

22. Occupations of bartender, waiter, and utility man (When working on a split shift, the hours must be confined within thirteen hours immediately following commencement of work.)

23. Grass-dehydration industry (exempt from April 1 to September 30, inclusive, in each year)

24. Logging industry -- hostlers (Split shifts must be confined within sixteen hours immediately following a commencement of work.)

There are three industries for which there are special laws governing hours of work:

(a) Coke-oven, smelter concentrator or mineral separation plants (Section 2 of the Labour Regulation Act.)

(b) Firemen: The Fire Departments Hours of Labour Act and the Fire Departments Two-platoon Act regulate the hours of work for firemen

(c) Mines: Sections 20. (1) - (3) of the Coal Mine Regulation Acts sets out the hours of work in coal mines. They read as follows:

> "20 (1) If no person shall be employed underground in a mine for a longer period than eight hours in any twenty-four hours, and the period of eight hours shall be reckoned from the time the person enters the mine until he returns to the surface.
>
> (2) No person shall be employed above ground at or about a mine for a longer period than eight hours in any twenty-four hours.
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> (3) This section does not apply
>
> (a) to emergencies where life or property is in danger; or
>
> (b) where urgent work is essential to the continuance of the ordinary working of the mine, but only on an occasional basis and not, in any case, for a longer period than sixteen hours in any twenty-four hour period; or
>
> (c) where there is a necessity for a periodic change of shift."

In mines other than coal mines, the Mines Regulation Act applies. The relevant provisions of that act are the same as Section 20 of the Coal Mines Regulation Act.

Most employees covered by the Minimum Wage Act must be given a weekly rest period of thirty-two consecutive hours.

Ambulance drivers and attendants, operators of public buses carrying more than seven passengers, truck drivers, and motor-cycle operators and their swampers and helpers, employees in the geophysical exploration, oil-well drilling, and service industries, and cook and bunkhouse employees in unorganized territory are expressly excluded from this rule.

There are mandatory overtime provisions for all employees covered by the general minimum wage order of the Board of Industrial Relations. Overtime Minimum Wage Order 3 (1976) outlines these overtime provisions.

Employees must be paid time and one-half the regular hourly rate of pay for the first three hours worked in excess of eight hours in any one day, and the first eight hours worked in excess of forty hours in any one week. Furthermore, employees must be paid double the regular hourly rate for each hour worked in excess of eleven hours in any one day or forty-eight hours in any one week. In computing the hours in excess of forty or forty-eight in a week, the hours in excess of eight in any one day are not included.

There is a different rule for employees covered by, or subject to, the negotiation of a collective agreement. They must, of course, be paid the rate established in the collective agreement, but it cannot be less than $4.50 for the first three hours worked in excess of eight hours in any one day, and the first eight hours in excess of forty hours in any one week. They must be paid at least $6.00 for each hour worked in excess of eleven hours in any one day or forty-eight hours in any one week. In computing the hours in excess of forty or forty-eight in a week, the hours in excess of eight in any one day are not included.

The General Minimum Wage Order (MINIMUM WAGE ORDER I 1975) outlines provisions for computing overtime for employees not paid on an hourly basis.

Employees covered by the Annual and General Holidays Act are entitled to an annual vacation of at least two weeks for every working year of employment. The amount of pay for vacations is a minimum of 4 percent of the total wages earned in the working year, and must be paid to employees at least one day before the beginning of the vacation.

Employees not covered by the Annual and General Holidays Act are:

(a) Employees covered by a collective agreement approved by the Minister of Labour

(b) Workers in farming and horticulture operations

(c) Domestics in a private residence

(d) Professional employees and employees training to be professionals.

An order made under the Annual and General Holidays Act provides for nine general holidays a year: New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day, British Columbia Day, and Christmas Day.

If a general holiday falls on a non-working day for an employee, he/she must be given a holiday with pay at another time. Furthermore, that holiday must be given at the earliest of two times, these two times being:

(a) Before the employee takes his/her annual vacation

(b) On termination of employment.

Employees are entitled to their regular rate of pay for a general holiday if it is a normal working day and they are not required to work. If they are required to work on a statutory holiday, then they must be paid at least time and one half their regular rate of pay plus a holiday with pay at another time.

There is a special rule for continuous operations, which are "any operations or services normally carried on every day". If such employees are required to work on a holiday, they are entitled to their regular rate of pay for the day plus either time and one half their regular rate of pay for all hours worked or a holiday with pay at another time.

Some employees normally covered by these rules are not covered in some circumstances. An employee is excluded from general holiday benefits if he/she has not earned wages for at least fifteen days during the thirty calendar days immediately preceding the general holiday or if the general holiday occurs in the first thirty days of employment. For this special exemption, a person is in the employ of an employer when he/she is available at the call of the employer, whether or not he/she is called to perform any work.

ARTICLE 8: TRADE UNION RIGHTS

A. The principal laws designed to promote, safeguard or regulate trade union rights as well as regulate relations between employers and employees represented by trade unions are:

1) The Labour Code of British Columbia
2) The Public Service Labour Relations Act
3) The Essential Services Disputes Act

B. Right to Form and Join Trade Unions

Section 2. (1) of the Labour Code of British Columbia declares that "every employee is free to be a member of a trade union and to participate in its lawful activities".

Article 6 of this report outlines the employees covered by this Act as well as acts of interference which constitute unfair labour practices.

C. Right of Trade Unions to Federate

There are no provisions restricting the right of trade unions to join national federations or confederations.

D. Right to Strike

Part V of the Labour Code of British Columbia outlines the Strikes, Lockouts and Picketing provisions.

Sections 79 and 80 read as follows:

Strikes and lockouts prohibited during term of collective agreement.

"79. (1) No employee bound by a collective agreement, whether entered into before or after the coming into force of this Act, shall strike during the term of the collective agreement, and no person shall declare or purport to authorize a strike of those employees during that term.

(2) No employer bound by a collective agreement, whether entered into before or after the coming into force of this Act, shall, during the term of the collective agreement, lock out any employee bound by the collective agreement.

Strikes and lockouts prohibited before bargaining and vote.

80. A trade union shall not declare or authorize a strike and no employee shall strike, and the employer shall not declare or cause a lockout, until

(a) the trade union and the employer, or representatives authorized by them in that behalf, have bargained collectively with respect to the dispute which is the cause or occasion of the strike or lockout and failed to conclude a collective agreement; and

(b) in the case of a trade union, or an employee in the unit affected, either

(i) the provisions of section 81 have been complied with; or

(ii) the employer has given notice, pursuant to clause (b) of subsection (2) of section 82, that he is going to lock out his employees; or

(c) in the case of an employer, either

(i) the provisions of section 82 have been complied with; or

(ii) the trade union has given notice, pursuant to clause (b) of subsection (2) of section 81, that the employees are going to strike,

> and, unless the provisions of this section are satisfied, the strike or the lockout, as the case may be, is illegal."

The Essential Services Disputes Act modifies the right to strike for firefighters, policemen, health care workers and several groups of public service workers.

Section 8 of this Act outlines the course of action available to the Lieutenant-Governor in Council.

The Schedule at the end of the Act lists the public service employees to which the act applies.

ARTICLE 9: THE RIGHT TO SOCIAL SECURITY

1. The principal provincial laws in administering regulations related to social security include:

A. Workers' Compensation Act
B. Guaranteed Available Income for Need Act
C. Elderly Citizens Housing Aid Act
D. Hospital Insurance Act
E. Health Act
F. Medical Services Act
G. Shelter Aid for Elderly Renters Act
H. Societies Act
I. Human Resources, Ministry of, Act

Forty-five percent of the total labour force in British Columbia is unionized and all of these workers are covered by collective agreements.

In a survey compiled by the Ministry of Labour, of working conditions in effect from December 31, 1977, the sample of collective agreements consisted of all those contracts covering 50 or more employees. 305 agreements fell into this category, and the number of employees covered in these bargaining units totalled 265,296 or 65.1% of the unionized work force in the province.

Of the 305 agreements surveyed, 298 contained health and welfare coverage which provided various benefits in the areas of basic health insurance, extended health insurance, paid sick leave, life insurance, accidental death and dismemberment insurance, pension plans and dental plans. An example of health and welfare coverage under a collective agreement, is the Master and Component Agreement between the Government of the Province of British Columbia and the British Columbia Government Employees' Union (a copy of the document is being sent to the Secretary-General of the United Nations with this report).

2. Social Security Programs Regulated by Provincial Statute

For each of the branches of social security listed below, we have indicated the percentage of the population covered, the nature and level of benefits and the methods of financing each scheme.

A. Medical Care

(i) Hospital Insurance Act

Under the authority of the Hospital Insurance Act, the Hospital Programs branch of the Ministry of Health provides reimbursement to general hospitals for inpatient care rendered to British Columbia residents who suffer from illness or injury or who require active convalescent, rehabilitative and extended hospital care. Generally speaking, every permanent resident who has made his home in British Columbia during the statutory waiting period is entitled to benefits. The payment made to a hospital by Hospital Programs amounts to $4.00 less than the per diem rate, and in the case of extended care patients under 19 years of age, $1.00 less than the per diem rate, approved for that particular hospital. The patient is responsible for paying the remainder. The provincial government pays the above-noted daily $4.00 or $1.00 as applicable, on behalf of social assistance recipients.

(ii) Medical Services Act

The Medical Services Commission, appointed by and responsible to the Minister of Health, administers the Medical Services Plan of British Columbia in accordance with the Medical Services Act. The Medical Services Plan provides a pre-paid medical services plan upon uniform terms and conditions for all residents of the province. Insured services under the plan are paid for insured persons regardless of age, state of health or financial circumstances, provided the premiums fixed by the commission are paid.

For those persons having maintained a permanent residence in British Columbia for the 12 consecutive months immediately prior to making application, premium rates and assistance are available as follows:

(a) Applicants who were not liable to pay income tax in the 12 months ending December 31 of the previous year qualify for a subsidy of 90 per cent of the full premium rate.

(b) Applicants whose taxable income in the 12 months ending December 31 of the previous year did not exceed $1,000 qualify for a subsidy of 50 per cent of the full premium rate.

Monthly premiums payable by subscribers, effective July 1, 1976, are as follows:

	Full Premium	50% Subsidy	90% Subsidy
One person	$ 7.50	$3.75	$0.75
Family of two	$15.00	$7.50	$1.50
Family of three or more	$18.75	$9.37	$1.87

(c) Temporary premium assistance is available for a three month period under unusual circumstances which, by reason of illness, disability, unemployment, or financial hardship render an eligile person unable to pay his currently required premiums for coverage under the plan. Temporary premium assistance is at 90 per cent of the full premium rate.

The Medical Services Plan provides insurance coverage for all medically required services rendered by medical practitioners, including osteopathic physicians and certain surgical procedures of dental surgeons where necessarily performed in a hospital as provided under the Medical Care Act (Canada). A contribution from the Federal Government is payable to the Province toward the cost of these insured services.

In addition to payment for the above services, additional benefits, when rendered in the Province, are provided without extra premium by the Government of British Columbia. All payments are paid only at a tariff of fees approved by the commission. A brief description of these additional benefits follows.

Chiropractic - Payment for the services of a registered chiropractor is limited in any one year to a total of $75 per patient under the age of 65 years and $100 per patient 65 years of age or over. There is no payment for X-rays taken by a chiropractor.

Naturopathic - Payment for services of a naturopathic physician is limited in any one year to a total of $75 per patient under the age of 65 years and $100 per patient 65 years of age or over. There is no payment for X-rays taken by a naturopathic physician.

Orthoptic treatment - Payment for orthoptic treatment is limited to $50 per patient in any one year and a maximum of $100 per family in any one year when rendered to an insured person on the instructions of or referral by, a medical practitioner.

Physiotherapy - Payment for the services of a registered physiotherapist on the instructions of, or referral by, a medical practitioner where performed other than in general or rehabilitative hospitals, is limited in any one year to a total of $75 per patient under the age of 65 years and $100 per patient 65 years of age or over. Out-patient physiotherapy services in general hospitals or in rehabilitative hospitals on referral by the medical practitioner are benefits provided by the British Columbia Hospital Programs.

Podiatry - Payment for services of a registered podiatrist is limited to $50 per patient in any one year and a maximum of $100 per family in any one year when rendered other than on the instructions of, or referral by, a medical practitioner within the year. There is no payment for X-rays taken by a podiatrist.

Optometry - Services of registered optometrists are approved for required diagnostic optometric services to determine the presence of any observed abnormality in the visual system. The plan does not pay for the fitting or cost of lenses.

Orthodontic - Service provided by a dental surgeon for an insured person 20 years of age or younger and which is consequentially necessary in the care of a cleft lip and/or cleft palate is paid only where that service arises as part of or following plastic surgery repair performed by a medical practitioner. There is no payment for dentures, appliances, prostheses, or for general dental services other than those referred to under basic medical services involving certain medical procedures of dental surgeons, where necessarily performed in a hospital.

Special nursing - Special nursing services of a registered nurse are paid, including the cost of board, to a maximum of $40 per patient in any one year, but only where such services are deemed advisable by a medical practitioner.

Under existing arrangements, the services of a member of the Victorian Order of Nurses, acting under or with an attending medical practitioner, are paid under the plan at a rate of $2 net per visit to a maximum of $40 per patient per year, but this limit does not apply to the administering of injections on the instructions of a physician.

No payment is made for any of the additional benefits when the service is performed outside the Province of British Columbia.

(iii) Workers' Compensation Act

Eighty per cent of the provincial work force is covered by the Workers' Compensation Act of British Columbia. The other 20 per cent of the work force not covered by this Act is composed of employees of farmers and small business employers who have opted to be excluded. Benefit plans are funded completely by contributions from employers. The assessment of contributions is based on the amount of money paid out in benefits during the previous fiscal year to each sub-category of industries covered by the Act.

Under the Act, compensible injuries are defined as injuries or diseases arising out of and in the course of employment. All medical expenses related to a compensible injury or disease are paid from the fund administered by the Workers' Compensation Board.

(iv) Guaranteed Available Income for Need Act

The Act provides the complete medical and dental coverage for all social assistance recipients who are certified as unemployable.

(v) Health Act

Under the Health Act, the Ministry of Health operates Public Health Programs which provide a wide range of preventive, treatment, and environmental control services. These services are made available to the public through some centralized facilities and a network of 17 local health units covering the non-metropolitan areas of the province. The services include: community public health nursing services, home care programs, dental health services for children, nutrition services, specialized community health programs and aid to the handicapped.

(vi) Societies Act

The Societies Act regulates the operation of societies which provide group medical coverage on a voluntary basis to employees in the province. Included in this coverage are pre-paid dental plans, weekly indemnity plans, extended health plans and pre-paid prescription plans. The largest society offering such services is the C.U. & C. Health Services Society which has 1,400 contracts providing various types of coverage to 586,000 members and dependents. Premiums vary according to coverage and may be paid on a cost-sharing basis by employers and employees or by employees only.

B. Cash Sickness Benefits

Weekly sickness indemnity plans are available under many collective agreements. For the 305 collective agreements covering 50 or more employees in British Columbia, the breakdown of benefits and employer contributions is as follows:

MAXIMUM AMOUNT OF WEEKLY SICKNESS INDEMNITY

		Number of Agreements
0	No provision	139
1	Less than $90	1
2	$91 to $120 per week	4
3	$121 to $150 per week	24
4	$151 to $200 per week	38
5	More than $200 per week	3
6	Percentage of earnings	47
7	Equal to maximum Unemployment Insurance Benefit	8
8	Varies according to earnings	9
9	Plan mentioned but amount not specified	20
10	Other	12
	TOTAL	305

EMPLOYER CONTRIBUTION OF WEEKLY SICKNESS INDEMNITY

		Number of Agreements
0	No provision	151
1	100% of premium	83
2	Less than 100% but more than 75% of premium	4
3	75% of premium	10
4	Less than 75% but more than 50% of premium	18
5	50% of premium	15
6	Less than 50% of premium	-
7	Flat amount	4
8	Plan mentioned but details not specified	15
9	Other	5
	TOTAL	305

C. Maternity Benefits

The Unemployment Insurance Act of Canada provides for financial assistance to women whose earnings are interrupted by maternity, and who are eligible for benefits. Maternity benefits are a percentage of the women's earnings and are paid over 15 consecutive weeks. The maximum benefits allowable amount to $2,400. For further information see the federal part of this report.

D. Invalidity Benefits

1. Guaranteed Annual Income for Need Act

Persons declared handicapped by the Ministry of Human Resources qualify for G.A.I.N. For the Handicapped benefits, provided

1. single persons do not have liquid assets over $2,500
2. married persons or persons with dependents do not have liquid assets over $5,000.

Persons in both categories may own capital assets, i.e. house, first car, household goods.

Payments vary according to the number of dependents and the amount of income. The monthly base rate for a single handicapped person is $285. Any handicapped person may earn up to $100 a month and still collect full benefits. Other revenue, i.e. from the Workers' Compensation Fund, is deducted from the allowable benefits.

In addition to base rate benefits, shelter allowances are available. For example, a single person may qualify for up to $57 per month; a person with two dependents may qualify for up to $103 per month.

Complete medical coverage is provided to all persons eligible for G.A.I.N. For the Handicapped.

This benefit plan is funded by the provincial government.

E. Old Age Benefits

1. Guaranteed Available Income for Need Act

Persons between 60-64 years of age qualify for a provincial supplement called Guaranteed Available Income for Need for Seniors. Single persons are eligible for the difference between their monthly income and $265 and married couples are eligible for the difference between their monthly income and $530. Single persons with assets exceeding $2,500 and married couples with assets exceeding $5,000 are ineligible for the supplement.

Persons over 65 years of age who qualify for the Federal Old Age Security and Guaranteed Income Supplement also qualify for a supplement under the Guaranteed Available Income for Need Act. Single persons are eligible for the difference between their monthly income and $319.17 and married couples are eligible for the difference between their monthly income and $634.36. Assets are not considered in determining these benefit levels of G.A.I.N. for seniors.

The Guaranteed Available Income for Need for Seniors Benefit Plan is funded by the provincial government.

2. Shelter Aid for Elderly Renters Act

Persons over 65 who receive Canada Pension Plan benefits and who have lived in British Columbia for 2 years, or 5 consecutive years at any time in the past, are eligible for a rental supplement if they pay more than 30% of their income for rent. This rental supplement equals 75% of the difference between rent paid and 30% of monthly income. This benefit plan is funded by the provincial government.

F. Survivors' Benefits

1. Workers' Compensation Act

Spouses of employees who die in the course of employment are entitled to a life-time pension. The amount of the pension is determined by the spouse's age, income and number of dependents.

2. Note: Life insurance schemes and accidental death insurance are available under most collective agreements. For the 305 collective agreements covering 50 or more employees in British Columbia, the breakdown of benefits and employer contribution is as follows.

MAXIMUM AMOUNT OF LIFE INSURANCE PER EMPLOYEE

		Number of Agreements
0	No provision	45
1	Less than $5,000	5
2	$5,001 to $10,000	37
3	$10,001 to $15,000	40
4	$15,001 to $20,000	25
5	More than $20,000	2
6	Varies according to earnings	49
7	Plan mentioned but amount not specified	40
8	Health and welfare fund mentioned but individual benefits not specified	45
9	Other	17
	TOTAL	305

MAXIMUM AMOUNT OF ACCIDENTAL DEATH INSURANCE

		Number of Agreements
0	No provision	152
1	Less than $5,000	2
2	$5,001 to $10,000	29
3	$10,001 to $15,000	26
4	$15,001 to $20,000	19
5	More than $20,000	4
6	Varies according to earnings	10

7	Plan mentioned but amount not specified	16
8	Health and welfare fund mentioned, but individual benefits not specified	42
9	Other	5
	TOTAL	305

EMPLOYER CONTRIBUTION TO LIFE INSURANCE PLAN

		Number of Agreements
0	No provision	39
1	100% of provision	118
2	Less than 100% but more than 75%	9
3	75% of premium	10
4	Less than 75% but more than 50%	11
5	50% of premium	47
6	Flat amount	1
7	Plan mentioned but details not specified	20
8	Health and welfare fund mentioned but individual benefits not specified	44
9	Other	6
	TOTAL	305

EMPLOYER CONTRIBUTION TO ACCIDENTAL DEATH INSURANCE

		Number of Agreements
0	No provision	153
1	100% of premium	66
2	Less than 100% but more than 75% of premium	7
3	75% of premium	4
4	Less than 75% but more than 50% of premium	9
5	50% of premium	11
6	Less than 50% of premium	-
7	Flat amount	-
8	Plan mentioned but details not specified	10
9	Health and welfare fund mentioned but individual benefits not specified	43
10	Other	2
	TOTAL	305

G. Employment Injuries Benefits

1. Workers' Compensation Act

Employment injuries benefits are available for all industrial injuries, accidents and deafness. Under the Act, full wage loss compensation is paid to employees until they return to work.

If the employee is permanently disabled and unable to work, he/she is entitled to full wage loss compensation in the form of a pension for the rest of his/her life.

Other disabilities are assessed according to the degree of impairment, i.e. a person who loses sight in one eye receives a pension equivalent to 16% of wages.

H. Unemployment Benefits

Unemployment benefits are the responsibility of Unemployment Insurance Canada which is regulated by federal statute.

I. Family Benefits

(i) Guaranteed Available Income for Need Act

This Act sets out the kinds of service for which people in need may be eligible: social assistance, shelter grants, health care, homemaker services, day care subsidies and employment and training grants. All services are funded by the provincial government.

Under the Act, persons may qualify for social assistance if their monthly income does not exceed limits established by the Ministry of Human Resources.

For example, a single person with no dependents whose monthly income does not exceed $50 may be eligible for an amount of up to a maximum of $175 per month. A single parent with one child may be eligible for an amount up to a maximum of $320 per month.

Persons who receive social assistance may apply for "Special Needs" money for costs of moving to a job, tools or work clothes, home repairs, new furniture, special diets, pregnancy, and emergencies. Social assistance recipients may also receive day care subsidies and education and training subsidies.

In addition to the Guaranteed Available Income For Need Act, the Ministry of Human Resources is able to provide services under several other provincial Acts. These services include family counselling, drug and alcohol counselling, foster or group homes and liaison with Family Court in cases of child apprehension or cases of family breakdown.

1. PRINCE EDWARD ISLAND

ARTICLE 6: THE RIGHT TO WORK

A. Legislation

The principal legislation and statements of policy of Prince Edward Island regulating the right to work include:

the Civil Service Act, Revised Statutes of P.E.I. 1974, Cap. C-9,
the Human Rights Act, Statutes of P.E.I. 1975, Cap 72,
the Labour Act, Revised Statutes of P.E.I. 1974, Cap. L-1, and
the Manpower Policy of the Government of Prince Edward Islant, September, 1978.

Collective Agreements between groups of employees and their employers also safeguard the right to work.

B. Employment Policies

In 1978, the Government of Prince Edward Island adopted a Manpower Policy which touches upon many of the provisions of this Article. The Forward to the document states:

> "The Government of Prince Edward Island is endeavouring to create conditions under which the people of the Province can develop economically and socially. In support of this commitment the Government has developed a comprehensive Manpower Policy designed to meet the following challenges:
>
> - unemployment and under-employment problems which continue to prevail in Prince Edward Island
> - new and improved programs of training or retraining
> - new vocational programs for the secondary school system
> - programs of job creation
> - shifts in Federal and Provincial Government priorities within an environment of restraint
>
> The Manpower Policy will guide the development of all manpower programs within the Province.
>
> The objectives of the policy are to assist the Province in the attainment of a fully developed and efficiently operated labour market while supporting the initiative of individuals to pursue their economic needs and self fulfillment through work and enterprise.

The Manpower Policy discusses the need for improved regulation of the labour market in such areas as industrial safety and employment standards, trade qualification and certification, industrial relations and the protection of human rights. There is a vitally important need to ensure that all Prince Edward Islanders enjoy equitable treatment in the labour market.

In order to ensure that all citizens adjust to technological and social change, access is needed to career planning, placement and training services including vocational, institutional and industrial skills training. In order for industry to develop, an adequate labour force with proper experience and training is essential. The Prince Edward Island Manpower Policy streesses the development of such a labour force.

The need, which is particularly relevant to Prince Edward Island, for the expansion of employment opportunities is of crucial importance to island residence. Within the overall framework for manpower development, the Policy places a high priority on job creation and the tailoring of our Government's industrial development policy as one of support for a viable private enterprise.

Manpower Policy should be only one effort in a comprehensive plan to upgrade the economic and social well-being of Prince Edward Islanders. This policy must be linked with our Government's education, economic development and industrial establishment policy in order to effectively meet the needs of the Island community."

(1) Access to Employment

The right to equal access to employment, without discrimination, is safeguarded in the Human Rights Act, Section 6, which provides the following:

"(1) No person shall refuse to employ or to continue to employ any individual on a discriminatory basis or discriminate in any term or condition of employment.

(2) No employment agency shall accept an inquiry in connection with employment from any employer or prospective employee that directly or indirectly expresses any limitation, specification or preference or invites information that is discriminatory and no employment agency shall discriminate against any individual.

(3) No person shall use or circulate any form of application for employment or publish any advertise-

ment in connection with employment or prospective employment or make any inquiry in connection with employment that directly or indirectly expresses any limitation, specification or preference or invites information that is discriminatory.

(4) This section does not apply to

(a) a domestic employed and living in a single family home; or

(b) an exclusively religious or ethnic organization or an agency of such an organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin as the case may be, if religion, creed, color, sex, marital status or ethnic or national origin is a reasonable occupational qualification."

The prohibition against discrimination under the Act relates to race, religion, creed, color, sex, marital status, ethnic or national origin or political belief.

Employment in the Civil Service

Employment in the Civil Service is governed by the Civil Service Act, Sections 22 to 44. Subsection 28 (1) provides that all appointments to positions in the classified service other than appointments to temporary employment, part-time employment or certain cases such as positions involving unskilled labour, shall be made by the Civil Service Commission on the basis of seniority, merit and fitness, to be ascertained by qualification examinations where practicable.

When a vacancy occurs, the Commission is notified by the supervisor of that position. If possible, a selection is made from one of the first five candidates in order of merit whose names appear on either promotional or re-employment lists. If no list of eligible candidates exists, the Commission "shall forthwith hold an examination", though a provisional appointment may be made until the results of the examination are published. The lists are reviewed annually.

Notice of examinations must be given publicly at least one week in advance. The examination "shall be of such character as to fairly determine the qualifications, fitness and ability of the persons tested to perform the duties of the class of positions to be filled, but no examination shall be so conducted as to elicit information concerning the political or religious opinions or affiliations of an applicant." (Section 23 (1)).

The Commission may, however, reject applicants for any of the following reasons: (a) for being physically unfit to perform the duties of the position; (b) for being addicted to the habitual excessive use of drugs or intoxicating liquor; (c) upon proof of delinquency; (d) if the applicant has made false statements or practiced any fraud or deception in his application; (e) or if the commission has credible information that he or she is not worthy of employment in the civil service (Section 25 (2)).

The rating of results of the examination must be completed within 60 days. Each candidate must be informed of his or her rating, and is entitled to inspect his or her ratings and test papers. (Section 27).

In selecting a candidate from a list, "preference shall be given to overseas and volunteer veterans" (Section 31).

Lists may also be established for temporary appointments, and "the names of all persons on the employment or re-employment lists who have qualified for the class in which extra employees are required, shall be placed at the head of the list." (Sub-section 39 (2)).

The applicant has the privilege of refusing temporary employment without affecting his or her standing on the employment list (Section 44).

(2) Policies and Techniques to Achieve Economic Development and Full Employment

The Manpower Policy described above states:

> "Manpower policy must, first of all, complement the overall economic and social aims of the Government. The objectives of this Government with respect to the people of Prince Edward Island is to create the conditions under which the people of P.E.I. can develop economically so as to improve the opportunities available for their fulfillment as human beings.
>
> The objectives of Manpower policy is to assist in the attainment of the economic and social goals of the Province of P.E.I. by seeking a full development and efficient operation of the labour market, while supporting the initiatives of individuals to pursue their economic needs and their self fulfillment through work and enterprise." (Manpower Policy, page 3).

The Province of Prince Edward Island entered, in 1969, into a 15-year Comprehensive Development Plan with the federal government. The purpose of the Plan is to assist the people of the Province in developing economic enterprises which will create permanent new employment opportunities and raise per capita income, while maintaining the unique Island environment.

(3) Organization of the Employment Market

The government of Prince Edward Island has developed policies of cooperation with the federal government with regard to the organization of the employment market. In its Manpower Policy the government indicates its intention to pursue initiative in three areas: labour market information, manpower planning, evaluation of government programs directed at the labour market.

In order to improve the information system in the Department of Labour, the Government has undertaken to establish

(i) a Labour Market Data Base which would provide the type of summary information necessary to do both short and long run Manpower planning, and

(ii) a Trades Registry which would provide information on occupational profiles, training, and availability of practitioners of various trades.

(4) Technical and Vocational Guidance and Training Programs

In addition to the technical and vocational training provided through the cooperation of the federal and provincial governments under the Canada Manpower Training Program, specific training courses are conducted within certain sectors.

The Civil Service Commission provides, assists and coordinates staff development and training programs "to ensure continuing improvement in the effectiveness and efficiency of individual civil servants and the civil service." (Regulations under the Civil Service Act, Section 171). The Commission also administers a program of educational leave of absence for approved studies on a full-time basis, with various levels of assistance to the employees (Section 172).

The teachers of Prince Edward Island have, under their collective agreement, an In-Service Training Assistance Program to review needed areas of instruction and to devise a government sponsored program to provide teachers with an incentive to study in the areas of instruction recommended by the In-Service Training Assistance Program Committee (Memorandum of Agreement between the Province of Prince Edward Island and the Prince Edward Island Teachers' Federation, 1977, Section 20).

Teachers are entitled to five days a year with pay to attend professional workshops.

(5) Protection Against Arbitrary Termination of Employment

Workers of Prince Edward Island are protected against unfair termination of employment under various specific collective agreements. Also the Labour Act, in Section 9(c), prohibits an employer from discharging an employee "because the employee is a member or officer of a trade union or has applied for membership in a trade union"; and, in Section 79, requires an employer to give at least one week's notice of discharge or layoff to an employee who has been employed continuously for longer than three months, or to pay that employee a sum equivalent to the employee's normal wages in lieu of notice. This requirement does not apply when an employee is discharged "for just cause including shortage of work".

Civil servants are protected from dismissal by the Civil Service Act, which states, in Section 53 (3) that no permanent employee shall be removed from office except by the authority of the Lieutenant Governor in Council. Notice of dismissal, stating the reasons for dismissal, must be given in writing to the employee fourteen days in advance, and the employee has the right of appeal. The Regulations under the Civil Service Act, Section 27 (d), specify that dismissal as a disciplinary measure can be imposed only for repeated violations of departmental regulations or for a single serious offence involving misconduct or negligence.

A civil service employee who has been hired on a probationary basis (usually for a twelve-month period) may be dismissed by the hiring authority within his or her department, but the employee must be advised in writing of the dismissal and must be given an appraisal of his or her work with the specific reasons for dismissal.

Teachers are hired by contract for "school year" under the School Act, Section 42, and the contract continues in force unless terminated by mutual consent, but teachers with less than three years' employment may be dismissed if notice in writing is given by the first day of May. Dismissal for cause may take place at any time; the teacher has the right of appeal.

If the number of teachers required in a regional administrative unit is reduced, the regional school board may terminate the contract of any teacher with due notice.

The Minister of Education may cancel a teacher's license but the teacher has the right to appeal the cancellation to a board of reference.

C. Statistics on Employment and Unemployment and Progress Achieved

The population of the province, in 1977, was approximately 120,000 people. The labour force, consisting of members of both sexes 15 years of age and older, numbered 50,000 in 1977. The unemployment rate in 1977 was 10 percent of the labour force.

Difficulties affecting the degree of realization of the right to work are stated in the Summary of the government's Manpower Policy:

> "From a Manpower perspective, serious problems confront the Province. Prince Edward Island is a very small, open economy where migration has traditionally been the safety valve. Economic growth makes it even more imperative that we prepare our people to meet the competition of regional and national markets. Continued economic development will place upon us the need for recurrent education and training. Fiscal restraint on the part of the government has imposed its own imperative. Ambitious and expansionary programming is no longer desirable; rather the rule has become evaluation and rationalization. On another front, the behavioural changes which have occurred in the labour market must be realized and addressed."

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

A. Remuneration

1. Legislation

The principal legislation of Prince Edward Island regarding fair remuneration includes:

the Civil Service Act, and Regulations;
the Labour Act;
the School Act, and Regulations.

Collective Agreements, for example those between the Teachers' Federation and the Ministry of Education, and the Canadian Union of Public Employees and the Ministry of Education, are the main instruments to ensure fair remuneration to unionized workers in the province.

2. Methods of Fixing Wages

Minimum standards and rates of remuneration are established through the Labour Act, Section 62, which provides for an Employment Standards Advisory Board to set minimum wage scales and vacation pay and, in various trades, to bring together employers and employees to set schedules of work and wages.

The minimum wage scales do not apply to farm labourers. Trade pay scales do not apply to farm labourers or domestic employees, or to government employees. Wages paid to handicapped persons may, by agreement, be set below the minimum wage.

The Board enforces the recovery of unpaid wages. It requires the employer to inform his employee on hiring as to the rate of pay and other terms of employment.

Collusion between employer and employee to pay less than the minimum wage is prohibited.

The rate which an employer may set for board and lodging provided to an employer is subject to regulation by the Employment Standards Advisory Board under the Labour Act, Section 63.

Salaries paid to civil servants are established by negotiation between the representatives of the government and the Prince Edward Island Public Service Association. The Treasury Board establishes rates of pay for employees excluded from the collective bargaining process.

Teachers of Prince Edward Island are represented for collective bargaining purposes by the Prince Edward Island Teachers' Federation. Agreements between the Federation and the Ministry of Education determine salary scales and increases, as well as bonuses and responsibility allowances paid to administrators. Salaries paid during the "school year" September 1977 to August 1978, ranged from $8,073 for the lowest category of beginning teachers to $21,900 for the highest qualified teachers with ten or more years of teaching experience.

The remuneration of other professionals is governed by the regulations of the professional associations.

3. Other Remuneration

Civil servants receive on retirement a sum calculated on the following basis:

(a) to employees who have at least ten years and not more than 15 years continuous full-time service with the government, payment of an amount equivalent to three months' salary;

(b) for each additional five-year period, or portion thereof, of continuous full-time service, payment of an amount equal to one month's salary, to a maximum of six months' salary. (Section 75, Regulations under the Civil Service Act.)

Other groups of employees receive retirement or other awards under collective agreements.

4. Statistical Data on Remuneration

The minimum wage in Prince Edward Island was $2.75 an hour effective July 1, 1978. This had increased from $2.70 in mid-1977; $2.50 in mid-1976; $2.30 in mid-1975.

Employees under 18 years of age received a minimum wage of $2.40 an hour in 1978.

The average weekly earnings in major industries (those employing 20 or more people, and excluding agriculture, fishing, trapping, service, public administration) were $192.08 at the end of 1977, up from $158.23 at the end of 1975 and $84.36 at the end of 1970.

The consumer price index in Canada rose from base 100 in 1971 to 160.8 in 1977.

5. Equal Pay for Work of Equal Value

Section 7 of the Human Rights Act provides the following:

> "No employer or person acting on behalf of an employer shall discriminate between his employees by paying one employee at a rate of pay less than the rate of pay paid to another employee employed by him for substantially the same work, the performance of which requires equal education, skill, experience, effort, and responsibility and which is performed under similar working conditions, except where the payments are made pursuant to:
>
> (a) a seniority system;
> (b) a merit system; or
> (c) a system that measures earnings by quantity or quality of production or performance;
>
> but where the systems referred to in clauses (a) to (c) are based on discrimination, the exemptions do not apply."

B. Safe and Healthy Working Conditions

1. Legislation

The principal legislation and regulations of Prince Edward Island pertinent to safe and healthy working conditions include:

The Worker's Compensation Act, Revised Statutes of Prince Edward Island 1974, Cap. W-10, with Amendments 1975, 1976, 1977, 1978, and the Industrial Safety Regulations under the Worker's Compensation Act.

Collective agreements also provide some protection to various sectors of workers in ensuring safety in the place of employment.

2. Procedures to Ensure Safe and Healthy Working Conditions

Workers in a wide variety of skilled and unskilled occupations are provided with compensation under the Worker's Compensation Act for injuries due to accidents in the course of employment. The Worker's Compensation Board determines the amount of compensation.

Industrial disease attributable to unsafe conditions at the place of work entitles the worker to compensation on a scale similar to that for industrial accidents.

The regulations on accident prevention standards and inspection services are also under the authority of the Board.

Section 71 of the Worker's Compensation Act provides that the board may at all reasonable hours enter into the establishment of any employer who is liable to contribute to the accident fund, for the purpose of ascertaining whether the ways, works, machinery, or appliances therein are safe, adequate and sufficient, and whether all proper precautions are taken for the prevention of accidents to the workers employed in or about the establishment or premises and whether adequate safety appliances or safeguards are used and employed therein, or for any other purpose which the board may deem necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund.

Section 71 further provides that where, in any employment or place of employment, safety devices are in the opinion of the board necessary for the prevention of accidents or of disease, the board may order the installation or adoption of the appliances or devices and may fix a reasonable time within which they shall be installed or adopted, and the board shall give notice thereof to the employer.

The employer is required to provide suitable first aid treatment services at the place of work.

The Industrial Safety Regulations under the Worker's Compensation Act establish standards for cleanliness, ventilation, light, storage of hazardous substances, wearing of safety clothing and numerous other aspects of safety and health in the place of work.

3. Workers not Covered by the Worker's Compensation Act

Workers not covered by the Worder's Compensation Act include casual workers, members of a police force or fire department, farm laborers and domestic servants. The police and firemen, however, are covered by collective agreements.

4. Statistical Information on Compensation

The average annual number of compensation claims, during the period 1968-1977, was:

for medical aid only	1,249
for non fatal injury	1,359
for fatal injury	4

C. Equal Opportunities for Promotion

Collective agreements passed between employees and employers often contain clauses relating to promotions.

Civil servants are assured of the opportunity for promotion on the basis of previous employment in the civil service. Section 48 of the Civil Service Act provides that the Civil Service Commission shall, whenever possible, and in the public interest, fill vacancies in the civil service by promotion within the civil service. The promotion is subject to satisfactory service during a probationary period.

The Memorandum of Agreement between the Province of Prince Edward Island and the Prince Edward Island Teachers' Federation (1977), requires the public advertisement of all openings for administrative positions within the Regional Administrative Units (Section 30).

The Collective Agreement Between the Province of Prince Edward Island and locals 1145, 1770, and 1775 of the Canadian Union of Public Employees (1978) regulates the promotion of non-instructional employees in the school system (Section 30). Vacancies must be widely advertised within the premises of the Employer. The Agreement further provides that the Employer may, at the same time as the posting is made, advertise outside for additional employees, but that no outside applications shall be considered until all applications from within the Bargaining Unit have been considered and it is found that there is no qualified applicant from within the Bargaining Unit. The Agreement states that the principles governing promotion are seniority and qualifications.

Training programs provided to assist employees to qualify themselves for promotion have been outlined under Article 6 B (4).

D. Rest, Leisure, Limitation of Working Hours and Holidays with Pay

1. Legislation

The principal legislation safeguarding the right to rest, leisure, reasonable limitation of working hours, and periodic holidays with pay, includes the Civil Service Act, and the Labour Act.

Provisions of regulations and of collective agreements also deal with these rights.

2. (i) Weekly Rest, and (ii) Normal Hours of Work

Under the Labour Act, authority is given to the Employment Standards Advisory Board to set working hours (Section 63).

Sections 69 to 75 of the Act provide another mechanism for fixing hours of work. Upon petition of representatives of employees and employers of any trade, the Minister of Labour may authorize the convening of a conference of representatives of employers and employees of such trade. Upon submission of the conference a schedule may be established establishing, among other things, the regular working days, the maximum number of hours comprising a regular working day, the hours of the day during which such hours of work may be performed and the maximum number of hours comprising the regular working week.

Civil servants excluded from the collective bargaining process are required, under the Regulations to the Civil Service Act, to work from 8:30 A.M. to 5:00 P.M. on Monday to Friday, with a lunch period of 60 minutes and two rest periods of ten minutes each. Flexibility in these arrangements is allowed according to the requirements of various departmental services, but the normal working week is 37 1/2 hours.

Comparable working hours apply for unionized civil servants. For example, under their collective agreement, non-instructional employees in the school system have working hours varying from 35 hours a week for clerical workers to 40 hours a week for manual workers.

(iii) Holidays with Pay, and (iv) Public Holidays

Section 64 of the Labour Act provides that an employee who works for an employer at least ninety per cent of the regular working hours within a continuous twelve-month period is entitled to a paid unbroken vacation of at least two weeks. Employees who do not meet the conditions are not entitled to vacation but must be paid an amount equal to four per cent of their earnings during the period.

Civil servants receive vacation entitlement at the rate of 1 1/4 days per month of service, and after 19 years of service the rate is increased to 1 2/3 days per month.

Public holidays for civil servants are New Year's Day, Good Friday, Easter Monday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day, the afternoon of Christmas Eve when this day occurs on a Tuesday, Wednesday, Thursday or Friday, Christmas Day and Boxing Day.

3. Special Provisions for Shift Work

Special provisions for shift work are made in the Regulations under the Civil Service Act. Schedules must be posted at least seven days in advance. Each shift schedule must be for no longer than four consecutive weeks, and equitable rotation of shift duties must be allotted to all employees in each classification in each unit. No employee must be required to work more than six consecutive days. Employees are allowed thirteen weekends off duty per annum, exclusive of vacation periods.

ARTICLE 8: TRADE UNION RIGHTS

A. Legislation

Legislation in Prince Edward Island to protect and advance the right of workers to participate in trade unions includes:

the Civil Service Act, and Regulations under the Act,
the Human Rights Act,
the Labour Act,
the School Act, and Regulations under the Act.

B. Right to Form and Join Trade Unions

Every employee "has the right to be a member of a trade union and to participate in the lawful activities thereof" (Labour Act, Section 8 (1)). Section 7(2) of the Act, however, provides that, for the purpose of Part I (Industrial Relations), no person shall be deemed to be an employee:

> "(a) who is a member of the architectural, dental, engineering, legal or medical profession entitled to practice in Prince Edward Island and employed in a professional capacity, registered nurses, and instructional personnel and non-instructional personnel as defined in the School Act, or
>
> (b) who, in the opinion of the board (Labour Relations Board), exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations."

In the School Act, "instructional personnel" means teachers and such other persons as the Minister of Education designates; "non-instructional personnel" includes school bus drivers, janitors, administrative and service staff and such other persons as the regional school board designates. Instructional personnel and non-instructional personnel obtained the right to bargain collectively through the School Act and the Regulations under the School Act.

Civil servants are represented by the Prince Edward Island Public Service Association Incorporated which is empowered under the Civil Service Act to negotiate on their behalf with the Minister responsible (Section 66). Provision is made for the choice of another union if the civil servants establish by majority vote their preference for that other union.

Under Section 133(f) of the Regulations established under the Civil Service Act "civil servant" means:

> "a permanent employee, including teachers and nurses employed by the Province and those unclassified employees with a minimum of six months continuous employment but does not include contract employees;"

Section 167 of the Regulations excludes the following employees from the collective bargaining process:

> "(a) Deputy Ministers and Chief Executive Officers of agencies of Government;
>
> (b) employees of the Executive Secretariat, the Treasury Board and the Civil Service Commission;
>
> (c) Department of Labour employees involved in the carrying out of the provisions of these regulations, and as designated by the Minister of Labour."

Employers may not "refuse to employ any person because such person is a member or officer of a trade union or has applied for membership in a trade union or require as a condition of employment that any person shall abstain from joining or assisting or being active in any trade union..." (Labour Act, Section 9 (1) (d)). Employers are prohibited from interfering in the organization of a union, and are obliged to recognize a union for bargaining purposes when the union has secured a majority of the workers as members and has been duly certified.

A union continues to be recognized as bargaining representative for the employees when an employer sells, leases, or transfers his business or any part of his operations (Labour Act, Section 38).

The Human Rights Act prevents unions from excluding individuals from membership on a discriminatory basis, "discriminatory" meaning denial on the basis of race, religion, creed, color, sex, marital status, ethnic or national origin or political belief (Section 8).

C. Right of Trade Unions to Federate

Unions in Prince Edward Island are not prohibited from joining federations, and, in practice, most are federated with national or international unions. For example, the Teachers' Federation is affiliated with the Canadian Teachers' Federation, and the non-instructional employees in the school system are organized into three Locals of the Canadian Union of Public Employees.

The Labour Act permits employees to be represented in negotiations by "a council of trade unions that has been vested with appropriate authority by any of its constituent unions to enable it to discharge the responsiblities of a bargaining agent" (Section 7 (1) (a)).

D. Right of Trade Unions to Function Freely

Unions in Prince Edward Island are enabled to enter into negotiations on behalf of their members according to procedures defined in the Labour Act, Sections 20 to 36. Unions have the right to have employers deduct union dues on their behalf, if this provision forms part of their collective agreement (Section 44).

The Public Service Association negotiates with the Government according to the process defined in Regulations under the Civil Service Act, Sections 145 to 151. Negotiations for renewal or revision of a collective agreement must commence at least six months before the expiry of the agreement. Both parties are required to meet and negotiate. The scope of negotiation includes: rates of remuneration, hours of work, overtime and other premium allowances for work performed, benefits pertaining to time not worked including paid holidays and paid vacations, group life insurance, procedures applicable to the processing of grievances, and conditions applicable to leaves of absence for purposes other than standing for election for any public office, political activities or training and development, and such other matters as may be mutually agreed upon by both parties (Section 150).

E. Right to Strike

The Labour Act of Prince Edward Island provides that there shall be no strikes or lockouts during the term of a collective agreement (Section 35).

Strikes are legal when a collective agreement has expired and 21 days have elapsed after a report is filed by a conciliation officer or, at a more advanced stage, if seven days have elapsed after a report is filed by a conciliation board or mediator. A strike vote must then be taken by secret ballot and a majority of the employees in the unit affected must have voted in favour of the strike (Section 40).

F. Restrictions

Civil servants, teachers and non-instructional employees in the school system do not have the right to strike. When negotiations and conciliation fail to permit employer and employees to reach an agreement the matter is resolved through binding arbitration. Members of the police force, full-time employees of fire departments and employees of a hospital do not have the right to strike. These groups of employees may, if negotiations do not lead to an agreement, appoint representatives to a Board of Arbitration, the report of which is binding on both parties. (Labour Act, Section 40 (5)-(9)).

ARTICLE 9: RIGHT TO SOCIAL SECURITY

1. Principal Legislation and Regulations:

The Health Services Payment Act, R.S.P.E.I. 1974 Cap. H.2.

The Welfare Assistance Act, Revised Statutes of Prince Edward Island 1974, Cap. W-4, and Regulations.

The Worker's Compensation Act, Revised Statutes of Prince Edward Island 1974, Cap. W-10, and Amendments 1975, 1976, 1977 and 1978. Regulations under the Act.

The Civil Service Act and the School Act, and Regulations under these Acts, as they relate to retirement, sickness and similar benefits.

2. Main Features of the Social Security System

A. General: The Welfare Assistance Program

a. Nature and Scope

The Welfare Assistance Program of the Province of Prince Edward Island is designed to provide assistance to persons in need, or to persons who are not in need if they are likely to become a person in need if the goods or services are not provided.

In addition to cash and material benefits, programs may be established to provide services of: day care, family counselling, homemakers, nutrition counselling, personal counselling, and speech therapy.

The objective of the Welfare Assistance program is to provide financial and/or material aid to needy individuals and families who for reasons of disablement, illness, age, family situations, or other causes are unable to provide themselves the basic necessities of life, or in special emergency conditions of need.

b. Eligibility

Assistance may be provided to applicants if the estimate of their basic needs or regularly recurring special needs is in excess of their financial resources.

c. Exclusions

Services provided under the Welfare Assistance Act are not denied to applicants on the basis of age, sex, race, religion, or language. Most exclusions from benefits under the program are based on value of liquid assets, and the financial circumstances of the applicant. These exclusions include:

i. a single person, without dependents who has liquid assets in excess of $200;

ii. a disabled person who has liquid assets in excess of $900;

iii. a single person with dependent children who has liquid assets greater than $1,200 for an applicant with one dependent child, and $300 additional for each dependent child;

iv. a married couple with liquid assets in excess of $1,200 for the couple and $300 additional for each dependent child;

v. an applicant separated from his or her spouse for the purpose of making the applicant eligibile for assistance;

vi. applicants who have an estimate of basic needs or regularly recurring special needs not in excess of financial resources; or

vii. applicants who are not Canadian citizens but who are still in the period of being sponsored by a Canadian citizen. These cases are usually decided on an individual basis after consultation with the Canada Employment and Immigration Centre.

d. Appeal Procedures

Where an applicant or beneficiary is not satisfied with the results of the review in his case in accordance with the Regulations, he may appeal to the Appeal Board for any of the following reasons:

i. he was not allowed to apply or re-apply for assistance;

ii. his application for assistance was denied;

iii. his application was cancelled, suspended, adjusted, or withheld on grounds which are inconsistent with the Regulations; or

iv. the amount of assistance granted was inconsistent with the Regulations.

A written notice of appeal is to be made by the applicant within 15 days after a review is made, and a meeting of the Appeal Board shall be held within 15 days of the notice of appeal. The Board must reach a decision based on majority vote within a period of thirty days from the notice of appeal, and deliver notice of the decision to the appellant forthwith.

Appeal procedures are contained in the General Welfare Assistance Act Regulations (1976), sections 37 to 45 inclusive.

e. Main Features of the Scheme

As of October, 1978, approximately 7,900 residents of the province were in receipt of services under this program, or 7.0% of the total population of the province.

A majority of the benefits received were in the form of cash and materials. For the month of October, 1978, average benefits for a family of two adults and two children were $265.00.

The Welfare Assistance program is financed approximately 50% by provincial revenues and 50% by federal revenues under the provisions of the Canada Assistance Plan. Minor contributions to the financing are available from National Health and Welfare through Blind Pensions, Disabled Pensions, and Rehabilitation.

B. Particulars

(a) Medical Care

The Health Services Payment Act, Revised Statutes of Prince Edward Island 1974, Cap. H-2, establishes a plan of health care for the people of the province and qualifies for financial assistance under the federal Medical Care Act. It provides for payment for the medical attention required by the residents of the province. Complementary legislation relates to hospitals, and there is a provincial Hospital Services Commission to administer the Health Services Plan.

(b) Cash Sickness Benefits

Sick leave with pay is generally provided for by collective agreements between employees and employers.

Civil servants accumulate sick leave credits at the rate of one and one-quarter days per calendar month, up to a maximum of 150 days (Regulations under the Civil Service Act, Sections 47 and 48).

Teachers receive sick leave with full pay under the terms of their collective agreements with the province. The 1977 agreement grants a teacher fifteen days' pay during absence because of sickness during the school year. Sick leave credits may be accumulated to a maximum of 199 days. Non-teaching employees in the school system, under their 1978 agreement, receive sick leave credits at the rate of one and one-half days for each month with a maximum accumulation of 180 days.

(c) Maternity Benefits

Cash benefits during maternity leave are available to employees through the federal unemployment insurance benefits.

Under the terms of their collective agreement, teachers may use up to ten days of accumulated sick leave credits during absence due to childbirth. A similar provision in the collective agreement of non-teaching employees allows the use of two weeks' accumulated sick leave credits during maternity leave. Arrangements are made for maternity leave for not more than six months with job re-instatement.

(d) Invalidity Benefits

Persons who are disabled qualify as persons in need under the Welfare Assistance program if they are without financial resources.

(e) Old-Age Benefits

Pension provisions are made by collective agreements between employees and employers, in addition to the basic Old Age Security pension provided by the federal government.

For example, civil servants contribute to a Group Life Insurance Plan and superannuation fund, providing for retirement benefits as well as for death benefit allowances.

(f) Survivors' Benefits

Benefits to survivors are subject to collective bargaining, and are included generally in collective agreements.

Under the Worker's Compensation Act, the dependents of an employee who dies as a result of injury or disease sustained at his place of work receive benefits of not less than $250 a month to widows, with additional monthly payments of $50 per child under 16 years of age.

(g) Employment Injury Benefits

Employees in Prince Edward Island are protected under the Worker's Compensation Act. The government's Worker's Compensation Board is empowered under the Act to receive applications by or on behalf of injured employees, to review the extent of injury and award compensation. Benefits are paid from the Accident Fund to which employers are obliged to contribute by established assessment. Compensation includes medical costs and the cost of prosthetic appliances, dental appliances and spectacles. The amount of compensation for permanent total disability is 75 percent of the worker's average earnings during the last twelve months of his employment, up to maximum earnings of $9,000 a year. Compensation may not be less than $60 a week. If the worker has been employed less than twelve months, the rate is determined by the average earnings of workers at the same wage level.

Compensation for partial disability is determined by the difference in earning capacity of the worker before and after the accident.

The Worker's Compensation Board has the authority to withhold compensation payments to a person who, in its opinion, is leading an immoral or improper life, and compensation may be assigned to dependents of the worker.

Some collective agreements provide for compensation in the event of injury or disablement. When a teacher is injured or disabled in the performance of assigned duties, the teacher first utilizes his or her sick leave credits and is then placed on leave with pay until medically certified able to continue teaching, up to a maximum of one year, provided that he or she does not take other employment. Payment is 60 percent of salary.

(h) Unemployment Benefits

Cash payments during unemployment are paid by the federal government.

(i) Family Benefits

Family benefits are provided by the federal government (see the federal part of this report).

4. MANITOBA *

ARTICLE 6: THE RIGHT TO WORK

The Province of Manitoba accepts the principles enunciated in this paragraph.

The principle of freedom from compulsion in the choice of employment is embodied in The Queen's Bench Act, R.S.M. 1970, Cap. 52. Section 60.1(1) provides that the Court of Queen's Bench shall not grant an injunction requiring any person to work for or perform personal services for his employer, and Section 60.1(2) states in addition that no person shall, by reason only of his refusal, neglect, or omission to perform work or personal services for his employer, be held in contempt of court for failing to comply with any order of the court. In addition, The Wages Recovery Act, R.S.M. 1970, Cap 285, in Section 3(2), states that no contract of service entered into by any parties is binding on either of them for a period longer than nine years from the date of the contract.

The Human Rights Act, S.M. 1974, Cap. 65, as amended, which Act is binding on the Crown, prohibits discrimination with regard to access to employment. Section 6(1) in particular states:

> "Every person has the right of equality of opportunity based upon bona fide qualifications in respect of his occupation or employment or in respect of training for employment or in respect of an intended occupation, employment, advancement or promotion, and in respect of his membership or intended membership in a trade union, employers' organization or occupational association;"

This Section goes on to prohibit discrimination in respect of employment or any term or condition of employment because of race, nationality, religion, colour, sex, age, marital status, physical handicap, ethnic or national origin, or political beliefs or family status. Where, however, sex, age, marital status, physical handicap, or political belief is a reasonable occupational qualification and requirement for the position or employment, the provisions above do not apply.

Protection against arbitrary termination of employment is provided in The Employment Standards Act, R.S.M. 1970, Cap. E110, as amended in 1976 S.M. Cap. 65. This Act prohibits termination of employment without notice being given to the employee. The Act guarantees a minimum length of notice by stating that this shall not be shorter than the period in

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* Report prepared by the Government of the Province of Manitoba.

respect of which one regular installment of wages or salary is paid to the employee. Where wages are paid less frequently than once a month, reasonable notice of the termination of employment must be given. An employer may terminate employment forthwith if he pays to the employee an amount equal to the wages the employee would have received for working his regular hours during the appropriate period of notice plus any unpaid vacation pay to which the employee is entitled. There are certain situations where an employee is not entitled to notice; examples are where he has been guilty of willful misconduct or disobedience or willful neglect of duty, or where he has reached the age of retirement according to the established practice of the employer. This Act merely sets minimum standards for employment in general.

Statistical information on the level of employment and the extent of unemployment and underemployment in Manitoba, is being sent to the Secretary-General of the United Nations along with this report. Some statistical information can also be found in Appendix 1 to this report.

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

A. Remuneration

The Employment Standards Act was enacted to ensure reasonable hours of employment and to establish minimum standards and conditions of employment. The Act applies to all employees in the Province of Manitoba with the exception of the following persons: independent contractors: persons employed in agriculture, fishing, fur farming, or dairy farming, domestics employed in a private household; persons qualified to practice a profession to which an Act of the Manitoba Legislature applies; and students in training in a course leading to professional status in such a profession. The Act is specifically made applicable to the Crown and to Crown agencies and their employees. Part II of The Employment Standards Act (Sections 23 to 28) requires that every employer pay each of his employees wages at a rate of not less than that prescribed in the Regulations made under the Act. The Act also provides that the level of wages established by the Regulations are to be based on the recommendations of the Minimum Wage Board established under the Act. At present (1978) Regulation E 110-R1 provides that employees under the age of eighteen years shall receive a minimum wage of $2.70 per hour for work done during standard hours of work, and employees eighteen years of age or older shall receive no less than $2.95 per hour for work done during standard hours of work. The Act also prescribes a "minimum overtime rate" which is a rate of wages 1½ times as great as the minimum rate established under the Regulations for hours of work in excess of standard hours of work. Statistical data showing the historical summary of minimum wage increases in Manitoba, data on the evolution of the average earnings as an industrial composite and in a representative sample of occupations, and on the cost of living, are being sent to the Secretary-General along with this report. Some data can also be found in Appendix 1 to this report.

Certain other Legislation deals with the matter of wages for special classes of employees. The Civil Service Act, R.S.M. 1970, Cap. C110 provides that the Lieutenant Governor in Council may make regulations establishing a pay plan for employees in the Civil Service; the Act also provides that an employing authority may require an employee to work beyond the prescribed working hours where necessary, and that compensation for working such hours is to be determined by regulations passed by the Civil Service Commission constituted under the Act. Similarly, the Commission, with the approval of the Lieutenant Governor in Council, may make regulations regarding safe working conditions throughout the Civil Service. The Apprenticeship and Tradesmen's Qualifications Act, S.M. 1972, Cap. 45, and Regulation 131/74 provide that the minimum wages to be paid an apprentice (defined as a person of at least sixteen years of age who enters into a written agreement with an employer to learn a trade designated by the regulations requiring a minimum of two years of reasonably continuous employment, which provides practical experience and related technical instruction) are to be not less than the provincial minimum wage plus ten per cent during the first year of apprenticeship, and shall increase by not less than ten per cent each succeeding year, unless otherwise prescribed by a separate trade regulation or collective labour agreement. The regulation also provides that in no instance shall an apprentice be paid wages at a rate less than the minimum wage currently in effect and prescribed by regulation under The Employment Standards Act. The overtime rates prescribed in The Employment Standards Act also apply to apprentices, unless there is a collective labour agreement which is more beneficial to the apprentice. The Construction Industry Wages Act, R.S.M. 1970, Cap 190, in regulations passed pursuant to this statute, provides a scale of minimum wages for various classifications of work in the construction industry. All these prescribed wages are higher than the minimum set in The Employment Standards Act. The regulations also provide that all hours worked in excess of the standard weekly hours, which are defined for each job classification by the regulations, shall be paid for at not less than 1½ times the regular rate of wages.

The right to equal pay for work of equal value is recognized in The Employment Standards Act, Part IV. The Act specifically prohibits discrimination between the sexes; it is provided that no employer and no one acting on his or her behalf shall discriminate between the male and female employees by paying to the employees of one sex wages on a different scale from that on which wages are paid to employees of the other sex in the same establishment, if the work required of, and done by, employees of each sex is the same or substantially the same. The work is deemed to be the same or substantially the same if the job, duties, responsibilities, or services, that the employees are called upon to perform are the same or substantially the same in kind or quality and substantially equal in amount. The Act also provides that a difference between the scale of wages of a male employee and of a female employee that is based on any factor other than sex, where the factor on which the difference is based would normally justify such a difference, does not constitute a failure to comply with the Act.

Equal Pay provisions of this Act are enforced under The Payment of Wages Act which provides that where an employer has failed or refuses to pay any of his employees any wages earned by the employee, the employee may file a complaint with the Employment Standards Division. The division may investigate the complaint and where it finds that wages are unpaid by an employer to an employee, the division may order the employer to pay those wages or where it finds that wages are not unpaid as alleged, it shall dismiss the complaint. Where an employer or employee disputes the findings of the divison, he may request the division to refer the matter to the Manitoba Labour Board for a determination of the matter and the division shall do so. Where an employer fails or refuses to comply with an order by the division (and the time for an application to the board has expired) or where an employer fails or refuses to comply with an order of the board, the division may file a copy of the order in the County Court in favour of the division. The Employment Standards Act, including the Equal Pay provisions, are specifically made applicable to the Crown (Section 3.1(1)).

Various pieces of legislation provide means by which an employee can recover wages improperly withheld by his employer. The Employment Standards Act states, in Section 20, that wages, including wages at overtime rates, due and payable to an employee are a debt due from the employer, and may be recovered by court action. The Payment of Wages Act, S.M. 1975, Cap. 21 provides an alternative method of collecting wages due. The Act applies to all persons engaged by another to perform skilled or unskilled manual, clerical, or technical work or service, with the exception of independent contractors. (This Act is therefore broader in scope than The Employment Standards Act). The Act provides that every employer is deemed to hold the wages accruing to an employee in trust for the employee and the employee has a lien and charge in the amount of wages on the assets of the employer that in the ordinary course of business would be entered in the accounts of that business. This lien for the amount of wages due and payable by an employer is limited to an amount not exceeding $2,000.00, and constitutes a lien and charge payable in priority to any other claim or right, including those of the Crown. The Payment of Wages Act also provides that every director and officer of a corporation is liable for the unpaid wages of the employees of the corporation for an amount not exceeding two month's wages and one year's vacation pay, and the provisions of the Act apply to the recovery of such unpaid wages from a director or officer where the corporation has failed or refuses to pay the wages due and payable. The Act provides for a complaint procedure where an employer has failed or refuses to pay any of his employees. The complaint is to be filed with the Employment Standards Division of the Department of Labour, which division will investigate and examine the books and records of the employer. The division may in writing order the employer to pay those wages to the division. Where the employer fails to do so the divison may file a copy of its order in the County Court and thereupon the order becomes a judgment of that Court, to be enforced in the same manner as any other judgment. There is a further provision in the Act stating that where an employee alleges that an employer has failed or refuses to pay wages due and payable to that employee the Attorney-General may authorize a member of his Department to act for and on behalf of that employee in any proceeding that may be necessary to recover the unpaid wages. It should be noted that the Crown in Right of the Province of Manitoba is bound by this Act.

The Wages Recovery Act, which defines an employee as any person who is in receipt of, or entitled to, any wages, provides a mechanism whereby an employee who has not received payment of wages actually earned or wages payable under a contract of service from an employer may lay an information in writing and under oath stating the cause of complaint and the amount of wages claimed. Upon the hearing of such a complaint, the Court, where satisfied that the cause has been proven, is required to order the employer to pay to the complainant the amount of wages found to be due. However, the order is not to exceed the amount of $500.00, exclusive of costs. This order can be filed in the County Court, and The Wages Recovery Act provides that the ordinary exemptions provided in The Judgments Act do not apply to a Certificate of Judgment registered in respect of such an order. The Act also specifically states that any civil or other remedy for the recovery of wages or damages by an employee are not curtailed, abridged, or defeated by this Act.

The Executions Act, R.S.M. 1970, Cap. 76, provides that all persons in the employment of a Judgment Debtor or Defendant, at the time of seizure under a Writ of Execution or Attachment, or within one month before such time, may file with the Sheriff or Bailiff their claims for wages or salary, attested under oath. The persons so claiming are then entitled to be paid out of the money levied from the property of any such debtor the wages or salaries due to them, not exceeding three months wages or salary, in priority to the claims of other creditors of the execution Debtor or Defendant.

There are other pieces of legislation which provide, for specific types of employees, additional means of recovering salary or wages due; The Mechanics' Liens Act, Continuing Consolidation of the Statutes of Manitoba, Cap. M80, and The Threshers' Liens Act, C.C.S.M. Cap. T60 provide for liens for wages for work done against the property involved. The Builders and Workers Act, C.C.S.M. B90, in addition to the duty imposed on the contractor (the direct employer), for the payment of wages to his workers, imposes a duty on the owner of the property itself with regard to payment of wages. The Construction Industry Wages Act contains a special provision whereby the Crown or a Crown agency can pay directly the employee of a contractor working under contract for the Government or the Crown agency where this contractor has defaulted in paying such wages.

B. Safe and Healthy Working Conditions

In September of 1977 The Workplace Safety and Health Act, S.M. 1976, Cap. 63 was proclaimed. The general objects and purposes of this Act are stated in Section 2: they are to secure workers and self-employed persons from risks to their safety, health and welfare arising out of, or in connection with, activities in their workplaces; and to protect other persons from risks to their safety and health arising out of or in connection with activities in workplaces. The Act defines the term "health" to be the condition of being sound in body, mind and spirit, and the term "worker" includes any person employed or engaged to perform a service or services, or undergoing training, or serving an apprenticeship, but excludes a person employed as a domestic in a private household. The term workplace is given a very broad meaning; the term includes any building, site, workshop, structure, mine, mobile vehicle, or any other premises or location whether indoors or outdoors in which one or more workers, or self-employed persons, are engaged in work or have worked. In general, the Act imposes on every employer the duty to ensure, so far as is reasonably practicable, the safety, health and welfare at work of all his workers, and to comply with the Act and regulations. Similarly, every worker is required to take reasonable care to protect his own safety and health and the safety and health of other persons who may be affected by his acts or omissions at work. The Act also sets up a comprehensive scheme of investigation; safety and health officers appointed under the Act have broad powers of entry and investigation, and have the authority to issue "improvement orders" to any person who is contravening any provision of the Act or regulations or has contravened any provision of the Act or regulations. Where a contravention specified in an improvement order has not been remedied, or where the safety and health officer is of the opinion that any activities which are being, or are about to be, carried on in a workplace, involve or are likely to involve an imminent risk of serious physical or health injury, that officer may issue a stop-work order which can provide for the cessation of the activities involved, and that all or part of the workplace be vacated. This latter order may be appealed to the Manitoba Labour Board. The Act also authorizes public inquiries into any matter of safety or health in a workplace, and provides that the Director of the Workplace Safety and Health Division may approve and issue codes of practice for the purpose of providing practical guidance with respect to the requirements of the Act and regulations. The Act also imposes on every physician or other qualified person attending or consulted respecting a person who became ill or injured while employed at a workplace or while being engaged as a worker to furnish, upon the request of the Chief Occupational Medical Officer appointed under this Act, reports concerning the condition of the person. A similar duty is imposed on hospitals. The Act also provides that where a worker has reason to believe that a condition exists that is dangerous to his safety or health in the performance of his work, where he has reported that condition to a person in charge, and where the condition remains uncorrected the worker shall then report the condition to a safety and health officer. The Act also states that where an employer or his agent knows or ought to know that any condition exists at a workplace that is unusually dangerous to the safety or health of a worker, he shall not require or permit the worker to continue to work in that workplace under that condition. The Director of the Workplace Safety and Health Division is empowered to require, by order, an employer to provide without loss of pay to the worker temporary alternative work where he has been advised by the Chief Occupational Medical Officer that a worker has been overexposed to a harmful substance and that a temporary removal from the hazard will enable the worker to resume his usual work.

The Workplace Safety and Health Act also provides for the establishment of workplace safety and health committees in certain workplaces or classes of workplaces designated by the Lieutenant Governor in Council. The main function of these committees is to consider and dispose of complaints respecting the safety and health of workers, and to promote measures to protect the safety, health and welfare of such persons. In addition, the Minister may designate a workplace or class of workplaces as requiring an Occupational Health Service, where such a service is advisable because of the type of work being carried on, the number of workers employed, and the degree or uncertainty of hazard involved in the work.

Under The Public Health Act, C.C.S.M. Cap. P210, there are provisions allowing both medical officers of health and public inspectors to enter and examine any place or premises. A medical officer of health may also order the abatement of an insanitary condition on, in, or in connection with, any premises or order premises to be vacated or demolished. Such an order may be appealed.

There are also statutes dealing with the safety and health of workers in unusually dangerous occupations. The Mines Act, C.C.S.M. Cap. M160, provides for the inspection, by persons appointed under the Act, of conditions in a mine. The inspector may give notice of any condition he considers to be dangerous or defective, or contrary to the Act or regulations, and may require them to be remedied. The inspectors are further empowered to exercise such other powers as may be necessary to ensure the health and safety of miners and all other persons employed in or about mines, smelters, metallurgical and mining works. Failure to comply with a notice given by an inspector constitutes an offence under the Act. The Act also provides that an employee in or about a mine who has reason to believe that conditions exist that are dangerous to his health or safety, which conditions have been brought to the attention of his employer and have remained uncorrected, can report these conditons to an inspector, who will then conduct an examination and inquiry. Any condition existing at a mine that constitutes a risk to an employee that is not normal to the usual risks of a job that an employee is required to do is deemed to be a condition that is dangerous to the health or safety of the employee. An owner or his agents is prohibited from requiring or permitting an employee to carry on work at a mine where he knows or ought to have known of any condition existing at the mine that is dangerous to the health or safety of the employee. The Mines Act also empowers the Minister to direct a special inquiry and report with respect to any accident in or about any mine, and in conducting the inquiry the inspector may compel the attendance of witnesses and the production of documents, and may take evidence upon oath.

The Steam and Pressure Plants Act, C.C.S.M. Cap. S210, provides for regular inspections to be made of all plants and pressure vessels, in addition to special inspections where it is reported to the Minister that a plant or pressure vessel has become unsafe. An inspector shall condemn as unfit for use every plant, boiler, or pressure vessel that in his opinion is unsafe, and the use thereof is prohibited.

In addition, the following should be noted:

(i) S. 8 of The Employment Standards Act prohibits the employment of children under sixteen without a special permit from the Minister.

(ii) Reg. E110-R1 of The Employment Standards Act provides that no employee shall be required to work longer than five hours without a meal period, which period is to be one hour long unless the Manitoba Labour Board approves otherwise.

(iii) Reg. E110-R1 also requires an employer to provide transportation to and from a female employee's residence where she is required to arrive at or leave work between midnight and 6:00 A.M.

(iv) Reg. E110-R1 provides no child or female employees can be required or permitted to lift articles of such weight as may impose excessive strain.

Information concerning the number, nature and frequency of occupational accidents, is being sent to the Secretary-General of the United Nations along with this report. Some information can also be found in Appendix 1 to this report.

C. Equal Opportunities for Promotion

The Human Rights Act, as indicated previously, specifically guarantees the right of equality of opportunity based upon bona fide qualifications in respect of advancement or promotion. The Human Rights Act also specifically prohibits an employer from refusing to advance or promote a person because of race, nationality, religion, colour, sex, age, marital status, physical handicap, ethnic or national origin, or political beliefs or family status. As stated above this Act is specifically made applicable to the Crown. It should also be noted that The Civil Service Act, which is generally applicable to the public sector, provides that selection for appointments, promotions, or transfers are to be based on merit, and that the Civil Service Commission shall determine merit by means of competitive examinations.

D. Working Hours, Public Holidays, and Periodic Holidays with Pay

The Employment Standards Act again provides a minimum guarantee with regard to hours to be worked by employees to which the Act applies. Part III of the Act (Section 31 to Section 38) deals with hours and conditions of work. In general, the Act provides that the standard hours of work for an employee are forty hours in any week and eight hours in any day. Where an employee works for more than the standard hours, he shall be paid at overtime rates. The Employment Standards Act also provides that every employer shall ensure to every employee employed in his "plant" (which term means any establishment, works, or undertaking, in or about any industry; the term "industry" includes any calling, trade, profession, work, occupation, undertaking or service with the exception of the work or occupation of farming), in every seven-day period, a rest period of at least twenty-four consecutive hours. Wherever possible this rest period is to be on a Sunday. (Section 36(1)). The Act also provides that an employer may be authorized to require employees who work in shifts, to work for more than the maximum daily or weekly hours mentioned above, but the Manitoba Labour Board shall prescribe a maximum number of hours to be worked over a certain period.

The Employment Standards Act also guarantees to every employee who does not work on a general holiday, payment of wages equivalent to those he would have earned on that day. Where an employee is required to work on a general holiday, he is required to be paid at 1½ times his regular rate of pay. Also, where an employee does not work on a general holiday, his employer cannot require him to work on what would otherwise be the employee's day of rest unless the employee is paid at the rate of 1½ times his regular rate.

Section 34.1 of The Employment Standards Act deals with maternity leave. Every female employee who has completed twelve consecutive months of employment with an employer is entitled to maternity leave to commence no earlier than eleven weeks preceding the estimated date of her delivery and terminating no later than seventeen weeks following the actual date of delivery. An employee who wishes to resume her employment on the expiration of maternity leave shall be reinstated by her employer in the position occupied by her at the time such leave commenced, and for the purposes of calculating pensions and other benefits, employment after the termination of the maternity leave shall be deemed continuous with employment before the commencement of that leave. It is specifically stated in this Section that the provisions of this Section apply to every person employed in any business or industry.

The general Act dealing with periodic holidays is The Vacations With Pay Act, C.C.S.M. Cap. V20. This Act is specifically made applicable to the Crown; it does not apply to independent contractors and persons engaged in agriculture, ranching or market gardening, or those employed in domestic service in a private household. The Act guarantees to every employee an annual vacation with pay. After each year of service with any one employer every employee is entitled to an annual vacation of two weeks; this increases to three weeks for each year of service subsequent to the fourth year. The vacation is to be received within ten months after the day on which the employee became entitled to it, and the vacation wages are equal to the wages which would be earned by the employee if he were working regular working hours during the vacation period. Where any other Act or an agreement or contract has more favourable vacation benefits, these will apply. Every employer is deemed to hold vacation wages accruing due to an employee in trust, and the employee has a lien and charge in this amount on the assets of his employer. The Act also provides a method for determining the vacation wages to be paid on termination of employment.

The Construction Industry Wages Act contains, in its regulations, special provisions with regard to maximum hours to be worked in the construction industry.

ARTICLE 8: TRADE UNION RIGHTS

The right of all persons to form and join trade unions is protected in Manitoba in The Labour Relations Act. The Crown is bound by this Act; however the Act is subject to The Civil Service Act and The Fire Departments Arbitration Act. Also, The Labour Relations Act does not apply to teachers; their rights with regard to joining a bargaining unit are protected in The Public Schools Act, C.C.S.M. Cap. P250, Sections 361 to 434.

The Labour Relations Act states that every employee has the right to be a member of a union and to participate in the activities of a union; anyone who interferes with this right commits an unfair labour practice within the terms of the Act. Similarly, anyone who interferes with the formation, selection, or administration of a union, or the representation of employees by a union that is a bargaining agent for the employees commits an unfair labour practice. Any employer or person acting on his behalf who discriminates with regard to employment against any person because of his membership or participation in a union also commits an unfair labour practice. The union at the organizational stage is also protected from interference by the employer under The Labour Relations Act. Where an unfair labour practice has occurred an application can be brought before the Labour Relations Board seeking a remedy. The power of the Labour Relations Board in remedying unfair labour practices is broad; it includes reinstating any employee in employment and compensating any person who has suffered loss by reason of the unfair labour practice.

It should be noted that The Labour Relations Act defines the term employee as follows:

> "Employee" means a person employed to do work and includes a dependent contractor, but does not include a person who is employed in a capacity that, in the opinion of the board, would make it unfair to that person, the employer or a union to include the person in a unit for collective bargaining purposes because
>
> (i) the person performs management functions primarily, or

> (ii) the person is employed in a confidential capacity in matters relating to labour relations."

The right of trade unions to establish national federations and of the latter to form or join international trade union organizations is implicitly recognized in the definition of the term "union" in The Labour Relations Act:

> "Union" means any organization of employees formed for purposes which include the regulation of relations between employers and employees, and includes a duly organized group or federation of such organizations".

The right of employees to strike is regulated by The Labour Relations Act, Part IV. The most noteworthy restriction is stated in Section 77(2) which provides that a union shall not declare or authorize a strike of the employees and no employee shall strike and no employer shall declare or cause a lock-out of the employees while there is a collective agreement still in force. Where a union has been certified as the bargaining agent for a unit of employees and no collective agreement has been reached between the union and the employer, there shall be no strike or lock-out during a period of ninety days after the certification of the union as the bargaining agent. In addition, it should be noted that The Queen's Bench Act provides protection for picketing in conjunction with a strike; Section 60.2(1) provides that the Court shall not grant an injunction restraining a person in the exercise of his right to freedom of speech, and Section 60.2(2) provides that the communication by a person on a public thoroughfare of information by true statements, either orally or through printed material or through any other means, shall be deemed to be the exercise of the right of that person to freedom of speech. This protection is of course subject to certain restrictions; for example, the interference with the person or property of another party, and the general law with regard to conduct of persons in public places and the law respecting defamation. These restrictions are necessary to protect the rights and freedom of others.

The Fire Departments Arbitration Act, C.C.S.M. Cap. F60, provides explicitly that no fireman shall strike. Any dispute between a fireman and his employer is settled by means of compulsory arbitration. With regard to the Provincial Police in Manitoba, The Provincial Police Act, C.C.S.M. P150 provides that The Civil Service Act applies to the police. The Civil Service Act has no provisions with regard to striking; therefore the provisions of The Labour Relations Act would normally apply.

ARTICLE 9: RIGHT TO SOCIAL SECURITY

There is a large and complex network of legislation dealing with social security in Manitoba.

The Social Allowances Act, C.C.S.M. Cap. S160, provides that the Government of Manitoba and the several municipalities in the Province may take such measures as are necessary to ensure that no resident of Manitoba lacks such things, goods, and services as are essential to his health and well-being. To ensure to each resident this basic standard of living, the Government, out of the Consolidated Fund, may grant and pay to or for a qualified recipient, monthly or more frequently, an amount in monies sufficient to pay the cost of the basic necessities of himself and his dependents. In general, qualifies for social allowance under this Act, a person who resides in Manitoba, is likely to lack the basic necessities in life, and is either incapable of working by reason of physical or mental health; is a widow or single parent mother with dependent children; or is a child (under 18 years of age) in the care of a child caring agency, foster home, or hospital, or is a child both of whose parents are dead or who are unable to contribute to his maintenance and who is wholly dependent on another person for his basic necessities; or is a person undertaking undergraduate academic or technical vocational training and has insufficient income to meet the basic necessities of himself and any dependents. The amount of the social allowance to be received is determined by the Director of the Department of Welfare in accordance with the regulations passed under this Act.

The Social Services Administration Act, C.C.S.M. Cap. S165 provides for additional assistance to Manitoban residents who receive the monthly guaranteed income supplement under the Federal Old Age Security Act. This statute also provides for the funding and establishment of additional social service and public welfare programs.

In addition to the allowances received under The Social Allowances Act, monetary assistance and additional social services for the disabled are provided in the following statutes: The Blind Persons Allowances Act, C.C.S.M. Cap. B50; The Blind Persons and Deaf Persons Maintenance and Education Act, C.C.S.M. Cap. B60; The Disabled Persons Allowances Act, C.C.S.M. Cap. D80; and The Elderly and Infirm Persons Housing Act, C.C.S.M. Cap. E20.

The Health Services Insurance Act, C.C.S.M. Cap. H35, empowers the Health Services Commission to provide insurance for residents of Manitoba in respect of the costs of hospital services, medical services, and other health services. Payment under this Government insurance plan is to be made out of a fund known as The Manitoba Health Services Fund, and the Act provides that the Lieutenant Governor in Council may make regulations requiring residents or groups of residents of the Province to pay premiums in respect of insurance under this Act. Every resident of the Province of Manitoba is an insured person under this Act and entitled to benefits thereunder (Section 33). These benefits include the right of the insured to have the Health Services Commission pay a hospital directly for hospital services which have been received by the insured person; and the right to have the Commission pay directly to a medical practitioner his fees for medical services rendered to the insured. There are also provisions whereby an insured can be reimbursed for the payment by himself for hospital services and medical care where these services have taken place outside the Province. As there is provision for a medical practitioner within the Province of Manitoba to elect to collect his fees otherwise than from the Commission, the insured also has the right to recover from the Commission, in respect of services from such a medical practitioner, the amount that the Commission would have paid to a doctor operating under the Act.

In The Health Services Insurance Act, the term "hospital" does not include a hospital or institution for the mentally ill or defective. Under The Mental Health Act, C.C.S.M. Cap. M110, expenses incurred in the care and maintenance of a mentally disordered person may be charged to and collected from the estate of that mentally disordered person or to any other person who is legally liable to provide for his care and maintenance, and where the Government has provided for or incurred expenses in connection with the treatment, care or maintenance of a mentally disordered person, the Crown may recover all or part of such cost or amount of the expenses as a debt due to it. A mentally disordered person is, however, entitled to receive social allowance under The Social Allowances Act as discussed above.

The Dental Health Services Act provides that the Minister of Health and Social Development may make arrangements for the provision of dental care and services to beneficiaries under the Act. In general, these beneficiaries are young children resident in the Province of Manitoba. Similarly, The Prescription Drugs Cost Assistance Act, C.C.S.M. P115 provides that the Government may pay to an eligible person a benefit in respect of the cost incurred by that person for the purchase of certain specified drugs for his own use or for the use of his eligible dependents. Eligibility is determined by the regulations passed under this Act.

Employment injury benefits are established under The Workers Compensation Act, C.C.S.M. Cap. W200. An employer under this Act includes the Crown, and although the term "workman" is used throughout the Act, by reason of The Interpretation Act, C.C.S.M. Cap. I-80, this term would include a woman. The Act does not apply to farm labourers, or domestic or menial servants, although any such employee can be brought under the Act upon the application of his employer. Compensation is payable out of the Accident Fund created under the Act where a workman suffers a personal injury by accident arising out of and in the course of his employment. The term "accident" is broad enough to include chance events, willful and intentional acts of others, and the conditions of the place of work as a result of which a workman is disabled. Unless the injury results in death or serious or permanent disability, where the injury is attributable solely to the serious and willful misconduct of the workman, no compensation is payable. In general, compensation is payable only where the accident occurs within the Province of Manitoba; there are, however special provisions which allow claims for certain accidents occurring outside the Province. It should be noted that the provisions of this Act are specifically made applicable to apprentices as that term is defined in The Apprenticeship and Tradesmen's Qualifications Act.

The compensation payable depends, in general, on the degree of disability created by the injury. Where the workman is not disabled, no compensation other than medical aid is payable. If the injury disables the workman during any working day after the day on which the accident occurs, compensation is payable from and including the working day following that on which the accident occurred. The compensation is determined as a percentage of the past average earnings of the workman. For the purposes of this calculation, however, the past average earnings cannot exceed ten thousand dollars. The factors determining the percentage of these earnings to be received by the workman are the permanency and the extent of the disability. In addition to providing compensation, the Workers Compensation Board may provide for medical treatment, care, and services; and for vocational training where necessary; and the Board may take such measures and make such expenditures from the Accident Fund as it deems necessary or expendient to aid in getting the injured worker back to work and to assist in reducing or removing any handicap resulting from his injuries.

The Act also provides for compensation to be paid to the dependents of a worker who dies as a result of an accident arising out of and in the course of employment. The term dependents includes the members of the worker's family who were wholly or partly dependent upon his earnings. Compensation will also be provided to a common-law spouse where there is no legal spouse dependent on the worker and where during the entire period of three years preceding the worker's death, the common-law spouse has been dependent on the worker.

Compensation is paid out of the Accident Fund created by this Act; for the purpose of creating and maintaining this Fund the Workers Compensation Board has the power to yearly assess and levy upon and collect from employers in the classes designated by this statute, by means of assessments made from the payrolls of employers, sufficient funds not only to meet all amounts payable from the Accident Fund under this Act, but funds to meet all costs and expenditures under The Workplace Safety and Health Act.

It should be noted that Regulation W200-R3 under The Workers Compensation Act sets up basic first aid requirements which are applicable to all industries to which The Workers Compensation Act applies.

5. NEW BRUNSWICK *

ARTICLE 6: THE RIGHT TO WORK

The Province of New Brunswick basically recognises the principles enunciated in this article. Although not specified in legislative form, several statutes support the principle of the right to work, and are designed to remove labour force restrictions which would inhibit that right.

In relation to paragraph 1, the Human Rights Act, R.S.N.B. 1973, c. H-11 provides protection through the prevention of discrimination in the employment situation.

> "3(1) No employer, employers' organization or other person acting on behalf of an employer shall
>
> (a) refuse to employ or continue to employ any person, or
>
> (b) discriminate against any person in respect of employment or any term or condition of employment,
>
> because of race, colour, religion, national origin, ancestry, place of origin, age, physical disability, marital status or sex.
>
> 3(2) No employment agency shall, because of race, colour, religion, national origin, ancestry, place of origin, age, physical disability, marital status or sex, discriminate against any person seeking employment.
>
> 3(3) No trade union or employers' organization shall
>
> (a) exclude any person from full membership
>
> (b) expel, suspend or otherwise discriminate against any of its members, or
>
> (c) discriminate against any person in respect of his employment by an employer
>
> because of race, colour, religion, national origin, ancestry, place of origin, age, physical disability, marital status or sex."

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* Report prepared by the Government of the Province of New Brunswick.

The Act prohibits as well any employment application form, advertisement in relation to employment, or any oral or written inquiry in connection with employment which expresses any limitation or preference or which requires an applicant to furnish any information as to the above listed variables.

A limitation, specification or preference on any of the variables enumerated in the Human Rights Act is permissible if it is based upon a bona fide occupational qualification as so found by the Human Rights Commission.

Employment is further protected by virtue of the Minimum Employment Standards Act, R.S.N.B. 1973, c. M-12 which prevents an employer from refusing to employ a female person who is pregnant, for reasons arising from her pregnancy only.

The common law should be noted as well, which, in regard to personal service contracts, will not allow a remedy of specific performance. The courts will not enforce a positive covenant of personal service as it would then be equated to servitude. However, it should be noted that damages for breach of contract would be available, and that the courts may enforce a negative covenant, if it is not in restraint of trade, and if it effectively did not deprive an individual of his livelihood, or force him indirectly to perform the positive covenant.

At the present time, the Province of New Brunswick does not require notice to be given in relation to termination of employment either by an employer or an employee, thus the common law is applicable in this area. However, notice provisions have been contemplated in proposed future labour legislation.

As to paragraph 2 of Article 6, specific legislation exists in the form of the Industrial Training and Certification Act, R.S.N.B. 1973, c. I-7. Under this Act, the Lieutenant-Governor in Council may appoint a Board consisting of one official of the Department of Labour, one official of the Department of Education, and one independent person who is to be the chairman. The Board has power to issue certificates of qualification, to issue a diploma to an apprentice, or to cancel or revoke certificates of qualification. As well the Act provides for a Director and other officers as are deemed necessary. An apprentice for the purposes of the Act is any person who is at least sixteen years of age and who has entered into a contract under which he is to receive training and instruction in a trade. No person is to enter into a contract of apprenticeship except in accordance with the Act. As well no contract of apprenticeship is binding upon the parties nor is a termination, cancellation, transfer or completion of the contract unless it is certified by the Director. The Director may refuse to certify such unless it is for the benefit of the apprentice. As well, the Act sets out that every contract of apprenticeship shall contain the names of the parties, the date of birth of the apprentice, the trade in which the apprentice is to be trained, the number of hours of related technical instruction and the rate of wages. The contract of apprenticeship must provide for a probationary period where the contract may be terminated by either party by giving one week's notice in writing of the intention to terminate the agreement. The employer as well has the benefit of being permitted to assign the agreement if he is unable to fulfill the contract with the approval of the Director and with the assent of the apprentice. The Act as well provides for certification of trades and the qualifications necessary of an individual to work in such trade. Any person found to be in contravention of the Industrial Training and Certification Act or who fails to comply with the Act or its regulations is guilty of a summary conviction offence and is liable to a fine of not more than one hundred dollars, or in default of payment, to imprisonment in accordance with subsection 31(3) of the Summary Convictions Act.

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

Regarding Article 7 in its entirety, there are numerous legislative enactments which guarantee the rights set forward. The entire area of labour law is presently under review in the province especially having regard to the private, non-unionized working sector of the Province of New Brunswick. The proposed legislation would not only consolidate the present legislation, but would enlarge the protection of rights, improve and raise the standard of protection currently in effect under present legislation.

Statute law which applies to remuneration can be found in the Minimum Wage Act, R.S.N.B. 1973, c. N-13. The Act establishes minimum wage inspectors and the Employment Standards Advisory Board is authorized to investigate and hold conferences to ascertain the wages, hours worked, and the conditions of employment in respect of any trade. The Board may make orders establishing the minimum rates of wages in a trade and the maximum number of hours per day, week or month for which such wages shall be paid, overtime rates, pay periods in a trade, and any rates which an employer may charge for board and lodging. The definition of employee for the purposes of the Act however, excludes agricultural workers and domestic servants but includes all others who do work for remuneration. As well wages include salary, but do not include tips or gratuities, which are the property of the employee to whom and for whom they were given. Currently (January 1979), the minimum wage in New Brunswick is two dollars and eighty cents ($2.80) per hour.

This rate is applicable for the first 44 hours worked in a week. Any work performed in excess of 44 hours per week is to be payable at the minimum overtime rate of four dollars and twenty cents ($4.20) per hour.

Section 15 of the Act provides protection for any person who seeks to register a complaint under the Act.

> "15 Every person who by threat of dismissal or loss of position or employment, or by actual dismissal or loss of employment, or by any act or threat calculated to intimidate, seeks or attempts to induce or compel any employee or employer to abstain or refrain from lodging a complaint, or from being a party to or taking part in any investigation or other proceeding under this Act is guilty of an offense."

Every employer who contravenes an order of the Board is guilty of a summary offence and is liable to a fine not exceeding one hundred dollars ($100) for every employee affected. Furthermore, a person who fails to comply with the provisions of the Act is guilty of an offence, and, where no other penalty is provided, is liable to a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000) and, in default of payment, is liable to imprisonment in accordance with the Summary Convictions Act. Where the employer is convicted in respect to the contravention of an order of the Board in respect to the payment of wages, in addition to the one hundred dollars ($100) maximum fine per employee, the employer may be ordered to pay to each employee the difference in wages, up to the minimum wage. Section 18 of the Act provides even further protection.

> "18 An employee, to whom an employer has paid wages at a rate less than the minimum rate established by the Board in the trade in which he is employed, is in addition to any other remedy, entitled to sue for and recover as an ordinary debt from his employer the difference between the wages he has actually received from his employer and the wages he would have received from his employer if he had been paid in accordance with such minimum wage."

The Fair Wages and Hours of Labour Act, R.S.N.B. 1973 c. F-2 also assures the payment of fair wages within the Province. This Act is of limited effective scope as it is applicable solely where a contractor (which includes a subcontractor for the purposes of the Act) contracts with a provincial authority (the Crown in right of the Province) to construct, remodel, repair or demolish any work. In this instance the contractor is required to pay fair wages as determined under the Act. The employer has a duty to post fair wage schedules, keep proper records, and file a sworn statement that the rates of wages and hours of labour are in accordance with the Act, and that no wages due to any employee are in arrears. Under section 4 of the Act, the Minister of Labour, may, if he is satisfied that a contractor has violated the Act, direct a provincial authority to pay wages directly to the employees and to deduct the payments from the amount owing the contractor.

The Industrial Standards Act, R.S.N.B. 1973 c. I-6 permits the Minister of Labour to authorize an inspector (which has been granted investigative powers under the Act) to convene a conference of representatives of employers and employees in an area of the province, for the purpose of investigating and considering conditions of labour, and labour practices within the Province. The conference may formulate a schedule of wages and hours of labour for the trade, which may establish among other things, the minimum rate of wages for regular working period and overtime rates in a trade. Once the schedule is submitted to the Minister and he is satisfied that it is a proper and sufficient representation, he may recommend the same to the Lieutenant-Governor in Council, who may approve such schedule, at which time it shall come into force. The Act requires the keeping of records by an employer of the names and addresses, ages, duties, hours of work, rates of wages of his employees and any agreement entered into in relation to working conditions. The Minister may establish an Advisory Committee for each provincial area which may hear complaints of employers and employees upon whom the schedule is binding. For the purposes of the Act, an employee includes any person entitled to wages for labour but does not include a person employed in agriculture or domestic service, employed by the Crown, or engaged in temporary service where labour and the cost of materials supplied does not exceed twenty-five dollars ($25). Any person who fails to comply with the Act is guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars ($100) or imprisonment in default of payment.

The concept of equal pay for work of equal value, particularly with regard to women and men alike is not specifically set out as such in legislative form in New Brunswick. The concept is effectively protected by the provisions of the Human Rights Act, R.S.N.B. 1973, c. H-11. The Act prevents an employer from discriminating against any person in respect of employment or any term or condition of employment upon the basis of race, colour, religion, national origin, ancestry, place of origin, age, physical disability, marital status or sex.

Remuneration of the employee is also protected by virtue of the Wage-Earners Protection Act, R.S.N.B. 1973, c. W-1. In an assignment, the assignee is required to pay in priority to a claim of either general or preferred creditors, the wages and salary of all persons in the employment of the assignor at the time of the assignment, an amount not in excess of three months salary. As to any excess, the employees then take rank as general creditors as to the residue. The same procedure exists in the distribution of the assets of a company under the Winding-Up Act, and in the distribution of the assets of a deceased person. Similarly, all persons in the employment of an execution debtor or in the employment of an absconding, concealed or absent debtor, are entitled to three months remuneration from the sheriff, taken out of the money realized on such execution.

The Minimum Employment Standards Act, R.S.N.B. 1973, c. M-12 provides specifically that when employment is terminated, the employer shall pay all wages or salary earned by an employee to that employee, not later than the next regular pay day. Furthermore, protection is afforded through the provision that any assignment of wages or any portion thereof as security for a debt is invalid.

In relation to safe and healthy working conditions, the Province of New Brunswick has legislation which effectively complies with the requirements of the Covenant. The Occupational Safety Act, R.S.N.B. 1973 c. O-0.1 requires every contractor, subcontractor or employer to take every reasonable precaution to ensure the health and safety of any person having access to the project site or place of employment or any person outside the area which may be affected by any operation or work. The Act binds the Crown in right of New Brunswick but does not apply where the Mining Act is applicable, or to private homes. The Act provides for officers which may enter upon and examine any place believed to be a place of employment for the purpose of carrying out the provisions of the Act. An officer may, where circumstances warrant, give an order in writing to a contractor, subcontractor, employer or employee to suspend all work, to take measures guarding a source of danger, or to take measures to protect the health and safety of other persons. The Act places responsibility upon an employee, in that every employee is to comply with the requirements of the Act, and must conduct himself so as not to endanger himself or other persons. Any contravention or failure to comply with the Act is an offence and the person is liable on summary conviction to a fine not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) for each day that the offence continues and in default of payment, to imprisonment. The Lieutenant-Governor in Council may make regulations providing for continuing study of safety codes, statistical data pertaining to accidents, accident prevention, and industrial health and hygiene.

The Health Act, R.S.N.B. 1973 c. H-2 provides that if a factory employs more than ten persons, it cannot operate without compliance with the provisions of the Act.

Equal opportunity to be promoted, subject solely to the considerations of seniority and competence, are protected through the provisions of the Human Rights Act, R.S.N.B. 1973, c. H-11 in relation to employment. The specific provisions, as set out in the discussion of Article 6 are broad enough to guarantee proper promotion procedure.

In New Brunswick at the present time, generally, there is no limit on the number of hours a person can work in a day or week (with certain exceptions), nor is there a limit on the required number of hours of work in a day or week (with certain exceptions).

The Occupational Safety Act, R.S.N.B. 1973, c. O-0.1 provides that no employer shall require an employee to work for a period exceeding four consecutive hours without providing for a suitable period for food and rest.

The Minimum Employment Standards Act, R.S.N.B. 1973, c. M-12 provides as well that, where an employee is other than a farm employee, an employee to cope with emergency situations or a part-time employee (one who is usually not employed for more than five hours in any one day), there is to be a twenty-four hour rest period to be taken, on Sunday if possible.

Furthermore, the Occupational Safety Act provides that no employer shall employ a child (a person under the age of sixteen years) and the Minimum Employment Standards Act states that no employee under the age of eighteen shall be employed for more than nine hours per day, unless the apportionment of hours is for the sole purpose of giving a shorter day's work (on Saturday for example), nor shall a person under the age of eighteen be employed for more than forty-eight hours a week unless the time is so extended by the Minister.

It may be noted that the working week may practically be limited to forty-four hours a week, as under the Minimum Wage Act, R.S.N.B. 1973, c. M-13. Any hours in excess of that limit are to be paid at an overtime rate. The Fair Wages and Hours of Labour Act, R.S.N.B. 1973 c. F-2 states that the contractor is required to employ his employees for not more than forty-four hours per week, except in cases so decided by the Lieutenant-Governor in Council or in emergency situations as so determined by the Minister.

It should be noted as well that the Industrial Training and Certification Act, R.S.N.B. 1973, c. I-7, the Industrial Standards Act, R.S.N.B. 1973, c. I-6, the Minimum Wage Act, R.S.N.B. 1973, c. M-13 and the Vacation Pay Act, R.S.N.B. c. V-1, all require the employer to keep records that must include the number of hours worked, and these records may be inspected by the appropriate officer in any specific situation.

Periodic holidays with pay are created under the Vacation Pay Act, R.S.N.B. 1973, c. V-1. The Act creates a 'vacation pay year' which runs from the first day of July to the last day of June then following, inclusive of that day. For the purposes of the Act an employee includes a person who is employed for remuneration but does not include a person who is either employed in a domestic or agricultural capacity or is employed by the Crown. Where an employee works at least 225 working days of shifts in any one vacation pay year the Act contemplates two situations. Where employment does not cease before the end of the vacation pay year, the employer must give an unbroken two-week vacation within four months of the end of the vacation pay year, must give at least one week notice in advance as to when the vacation is to begin, and must pay the employee, at least one day prior to the commencement of the vacation period, his vacation pay equal to 4% of the employee's earnings for the vacation pay year. If the employment ends before the end of a vacation pay year, then the employer must pay the employee an amount equal to 4% of the employee's earnings. Furthermore where an employee has worked less than 225 days, whether the employment has or has not ceased prior to the end of the vacation pay year, the employee is not entitled to vacation days, but the individual is entitled to vacation pay equal to 4% of the employee's earnings for the vacation pay year.

The Vacation Pay Act states, however, by virtue of Section 4, that when any other provisions for an annual vacation are established by any other act, agreement, contract of service, or custom, and are as favourable to an employee, then those provisions prevail over the Act.

The Act also requires that records be kept showing compliance and the Minister may inspect any record which relates to an employee's wages and vacation. Under Section 5(1) a violation of the Act is a summary offence and punishable by a fine not in excess of five hundred dollars ($500) or by imprisonment for sixty days. Where there has been a conviction, a judge of the Provincial Court shall order the employer to pay the employee, or to pay into court on behalf of the employee, all money to which the employee is entitled under the Act.

A further period of absence from the place of employment is created by the Minimum Employment Standards Act, R.S.N.B. 1973 c. M-12 by virtue of maternity provisions. An employer shall permit a female employee to be absent from her work for a period of up to six weeks of the date of expected delivery. As well, an employer is required to allow a further six weeks absence from the time of delivery of a child. Notice of dismissal for reasons arising from her absence may only be given after the employee has been absent for seventeen weeks.

The Minimum Employment Standards Act provides as well for paid public holidays. New Brunswick employees are entitled to six public holidays with pay: New Year's Day, Dominion Day, Labour Day, Christmas Day, Good Friday and New Brunswick Day. An employee does not qualify for a paid holiday if the employee: has been employed by the present employer for less than ninety days during the previous twelve calendar months preceding the holiday, has not earned wages for part or all of each of fifteen out of the thirty days prior to the holiday, does not work on his scheduled working day preceding and following the holiday, who after agreeing to work on a public holiday, does not do so (without reasonable cause); or is employed under an arrangement where he may elect to work or not when requested to do so. When a public holiday falls on a working day, the employer must give the employee a holiday and pay the employee his regular wages, or the employer may, with the employee's consent, substitute another working day not later than the employee's next annual vacation. When a public holiday falls on a non-working day, the employee shall be given another normal working day off with pay or, if the employee agrees, the employer may pay the employee his regular wage for the public holiday. Where an employee does not have a substitute arrangement and works on a public holiday, the employee is to be paid one and one-half the regular rate in addition to his normal salary for the public holiday. Where an employee is employed in a hotel, motel, tourist resort, restaurant, tavern or any continuous operation the employer may pay regular wages for the public holiday and give the employee a day off with pay on the first working day following his annual vacation (or any other agreed upon day) or the employer shall pay, in addition to the employee's regular wages, a premium of not less than one and one-half his regular wage. Where an employee does not qualify for a paid holiday, he must be paid at least one and one-half of his regular rate for each hour worked on a public holiday.

ARTICLE 8: TRADE UNION RIGHTS

The right of all persons to form and join trade unions is protected in New Brunswick in the Industrial Relations Act, R.S.N.B. 1973, c. I-4, and in the Public Service Labour Relations Act, R.S.N.B. 1973, c. P-25.

The Industrial Relations Act is not applicable to any person subject to the provisions of the Public Service Labour Relations Act.

The Industrial Relations Act states that every employee has the right to be a member of a trade union and to participate in any lawful activities thereof. Anyone who interferes with this right, by using coercion or intimidation to encourage or discourage membership or activity in or for a trade union, commits an unfair labour practice. In the same respect, anyone who interferes with the formation, selection, or administration of a trade union commits an unfair labour practice. An employer may however: make donations to a trade union solely for the welfare of its members and their dependents; allow an employee or representative of a trade union to confer with him during working hours without deduction of time; provide free transportation to a representative of a trade union for the purposes of collective bargaining, settlement of grievances, or arbitration; or permit a trade union to use the employer's premises for trade union activities. Any employer who discriminates in employment against any person because of membership in a trade union, or because of involvement in organizational activity, commits an unfair labour practice. Where an unfair labour practice has occurred, a complaint in writing may be brought before the Labour Relations Board. The Board has wide powers in relation to unfair labour practices and, as a remedy, it may order an employer, employer's organization, trade union, council of trade unions, or any other person to cease doing the act complained of and/or to rectify the act (including the hiring or reinstatement of persons with or without compensation, or compensation in lieu of hiring or reinstatement).

The definition of "employee" is restricted for purposes of the Act.

> "Employee" means a person employed to do skilled or unskilled, manual, clerical, mechanical or professional work, but does not include
>
> (a) a manager or superintendent, or any other person who, in the opinion of the Board, is employed in a confidential capacity in matters relating to labour relations or who exercises management functions, or
>
> (b) a person employed in domestic service in a private home" (Section 1).

The right of trade unions in relation to paragraph (b) of Article 8 of the Covenant, is specifically set out in the definitions of "council of trade unions" and "trade union" for the purposes of the Act (Section 1).

> "Council of trade unions" includes an allied council, a trades council, a joint board and any other association of trade unions."
>
> "Trade union" includes any organization of employees formed for purposes that include the regulation of relations between employers and employees that has a written constitution, rules or by-laws setting forth its objects and purposes and defining the conditions under which persons may be admitted as members thereof and continued in such membership and includes a

> provincial, national, or international trade union and a certified council of trade unions but does not include an employer dominated organization."

The Industrial Relations Act regulates the rights of employees to strike. By virtue of sections 91(4) and 91(5) no person employed full time by a municipality as a member of a fire department or no police officer or constable shall strike (where a municipality has not made or could not make provision for the public safety) nor may a municipality declare a lock-out in relation to such employees. Furthermore, where a collective agreement is in force, no employee may strike and no employer may lock-out an employee. The right to strike is somewhat restricted where a collective agreement has not yet been entered into, or where a conciliator has been appointed.

Section 104 of the Act provides for picketing at the employer's place of business where there is a lawful strike or lock-out, and members may (without acts that are otherwise unlawful) persuade others not to enter the employer's place of business, deal with the employer's products or do business with the employer.

The Public Service Labour Relations Act applies to the Public Service and binds the Crown in right of the Province of New Brunswick. 'Employee' is defined for the purposes of the Act as a person employed in the Public Service other than

(a) a person appointed by the Lieutenant-Governor in Council under an Act of the Legislature to a statutory position described in that Act and to whom the Civil Service Act does not apply,

(b) a person locally engaged outside the Province,

(c) a person whose compensation for the performance of his regular duties of his position or office consists of fees of office, or is related to the revenue of the office in which he is employed,

(d) a person not ordinarily requested to work more than one-third of the normal period for persons doing similar work,

(e) a person employed on a casual or temporary basis, unless he has been so employed for a continuous period of six months or more,

(f) a person employed by or under the Public Service Labour Relations Board, or

(g) a person employed in a managerial or confidential capacity.

The Act guarantees the right of an employee to be a member of an employee organization (which includes a council of employee organizations) and to participate in its lawful activities. The Act sets out unfair labour practices and provides that the Board shall examine and inquire into any complaint. If the Board determines that any person has failed to observe any prohibition or to give effect to any provision under the Act, then the Board may make an order requiring appropriate action of that person.

The right to strike is restricted in that an employee may not strike where a collective agreement is in force and no employee may participate in a strike if he is a designated employee (an employee whose duties in whole or in part are or will be necessary for the interest of the health, safety or security of the public) or if he is not included in a certified bargaining unit. During the continuance of the strike, the employer cannot replace the striking employees or fill their positions with any other employee. However, the striking employees are not permitted to picket or demonstrate in any manner in or near any place of business of the employer.

The Public Service Labour Relations Act operates in conjunction with the Civil Service Act, R.S.N.B. 1973, c. C-5. No appointment may be made to or from within the Civil Service unless a vacancy exists. Under the Act no person shall become an employee except upon competitive examination. The Commission created under the Act is to maintain a list of qualified eligible candidates for Civil Service positions and, in establishing such a list, it is required to place the candidates thereon solely in the order of merit. In determining assessment of merit the Act specifically prohibits discrimination against any person by reason of sex, race, national origin, colour or religion.

Once appointed, the Act provides for a probationary period for the employee. The Act restricts the activity of an employee in that, unless so authorized, no employee may be a candidate or may work for a candidate in a federal or provincial election.

The Act further provides for lay-offs due to lack of work or to a discontinuance of a function. As well, if an employee is absent from duty for five consecutive working days otherwise than for reasons over which the employee has no control, then the employee may be declared to have abandoned the position and he thereupon ceases to be an employee.

ARTICLE 9: RIGHT TO SOCIAL SECURITY

The Right to Social Security, including social insurance has been recognized and given program realization through a wide array of legislative social programs.

1. Principal legislation and regulations:

The Hospital Services Act, R.S.N.B. 1973 c. H-9 and Regulations;

the Medical Services Payment Act, R.S.N.B. 1973 c. M-7 and Regulations;

the Health Services Act, R.S.N.B. 1973 c. H-3 and Regulations;

the Workmen's Compensation Act, R.S.N.B. 1973 c. W-13 and Regulations;

the Social Welfare Act, R.S.N.B. c. S-11 and Regulations;

the Old Age Assistance Act, R.S.N.B. 1973 c. O-3 and Regulations;

the Disabled Persons Allowance Act, R.S.N.B. 1973 c. D-11 and Regulations;

the Blind Persons Allowance Act, R.S.N.B. 1973 c. B-5 and Regulations;

the Education of Aurally or Visually Handicapped Persons Act, S.N.B. 1975 c. E-1.2;

the Auxillary Classes Act, R.S.N.B. 1973 c. A-19 and Regulations;

the Civil Service Act, R.S.N.B. 1973 c. C-5 and Regulations.

2. Main Features of the Social Security System

A. General: The Social Assistance Program

1. Nature and Scope

The Social Assistance Program in the Province of New Brunswick is designed to provide financial assistance to individuals and families in need by granting a fixed monthly allowance so that the basic necessities of food, shelter, clothing and utilities can be purchased. When circumstances warrant, supplementary financial assistance is given so that clients may purchase health or counselling services or special emergency items.

For the fiscal year 1978-79 the preliminary expenditures of the Department of Social Services were broken down as follows:

Payments made under the Social Welfare Act to Clients:	61.1%

Payments made under the Social Welfare Act for blind and disabled persons:	4.3%
Payments made under the Act for persons in Nursing Homes, Special Care Homes and Special Care Facilities:	17.4%
Payments made under the Child Welfare Act for children in care and payments made under the Social Welfare Act for day care subsidies:	3.0%
Operating expenditures of Rehabilitation Centres and Hospital Schools:	4.4%
Expenditures on Work Activity Projects, Rural and Native Housing, Community Employment Strategy, Sheltered Workshops and Community based Services for Seniors:	1.0%
Expenditures for appeals, grants, training, administration, Vocational Rehabilitation and Planning:	8.8%

The Department of Social Services has programs to assist families. The emphasis is to maintain children in the family home and provide services that will help the family stay together. The Department is also active in programs such as: Child protection services, child care services, adoption services, day care services, rehabilitation services, employment-related services, services to senior citizens, nursing homes, special care homes and community residences.

2. Eligibility

When a person applies for assistance under the Social Welfare Act, eligibility will be determined by considering: assets; assured income and income, using the budget deficit method.

3. Exclusions

Services provided under the Social Welfare Act are not denied to applicants on the basis of age, sex, race, colour, religion or language. Exclusions from benefits under the program are based on the value of liquid assets and the financial circumstances of the applicant.

An applicant who is potentially employable will be excluded from assistance unless he produces evidence that he has explored within the limits of his ability, every possibility of support for himself and his dependents. The applicant who is potentially employable will be referred for an employability assessment before eligibility for assistance can be determined, except in emergency situations, and if he is assessed as employable, must register with Canada Employment and Immigration Commission.

4. Appeal Procedures

By virtue of S.3 of the Social Welfare Act an applicant for or a recipient of assistance may appeal, in accordance with the procedure set out in the regulations, any decision relating to his application for assistance or to the amount of assistance provided.

The function of the Social Welfare Appeals Board is to review departmental decisions and ensure that the clients' legal rights under the Social Welfare Act and Regulations have been granted. The Board consists of a full-time chairman, two vice-chairmen and twelve members.

An applicant or recipient may make a request for review of his case by the designated officer where:

a) his application for assistance has been denied;

b) in his opinion, the assistance granted is insufficient or inappropriate for his needs within the limitations imposed by the regulations;

c) assistance of which he has been in receipt is reduced; or

d) assistance of which he has been in receipt is discontinued;

e) in his opinion there has been unreasonable delay in the making of a decision in any matter which affects his receipt of assistance; or

f) he has been refused an Item of Special Need.

If the applicant or recipient is not satisfied with the decision of the designated officer he may initiate an appeal to the Appeals Board by serving a Notice of Appeal upon the Chairman within 10 days of the receipt of the decision of the designated officer. The Chairman shall arrange a hearing to be held within 30 days from receipt of the notice. The decision of the Appeals Board, based on majority vote, shall be handed down within 15 days from the conclusion of the hearing.

During the fiscal year 1978-79, 579 appeals were processed. Of these, 142 were granted, 345 were rejected and 91 appellants did not appear.

B. Particulars

(a) Medical Care

The Department of Health has a number of service sections.

The broad objective of the Public Health Services section is to minimize health hazards to which people in the province are exposed; to prevent or reduce the occurrence of disease and disability and to promote healthy personal habits in the population.

Other services include: Dental Health Services, Mental Health Services, Alcoholism Programs, Ambulance Services, Laboratory Services, Prescription Drug Service, Medicare and Hospital Services.

The Medicare program provides for the coverage of medically required services in accordance with the terms and regulations of the Medical Services Payment Act, R.S.N.B. 1973 c. M-7, and the Health Services Act, R.S.N.B. 1973 c. H-3; a health care plan for the province has been established in conjunction with the federal Medicare Act.

Medical Care is available to the residents of the province without charge with the exception of a $6.00 "user fee" for emergency services at a hospital. This fee was implemented in May of 1979. For anyone over 65 the "user fee" is $2.00. There is also a $10.00 admitting fee when an individual is admitted to hospital or a $4.00 fee for those over 65.

(b) Cash Sickness Benefits

Civil Servants in New Brunswick accumulate sick leave credits at the rate of 1-1/4 days per month for each full calendar month of continuous employment up to a maximum of 240 days.

Sick leave with pay as a rule is provided for in collective agreements or company policy for non-government workers.

(c) Maternity Benefits

The Unemployment Insurance Act of Canada provides for financial assistance to women who are eligible for benefits and whose earnings are interrupted by maternity leave.

An employee of the Provincial Government is entitled to maternity leave (leave without pay), for two months prior to the expected delivery date and three months after the delivery date. An employee who is entitled to maternity leave may use up to ten days of accumulated sick leave credited to cover the two week waiting period before which maternity leave benefits under the Unemployment Insurance Act become payable.

(d) Invalidity Benefits

The Social Welfare Act provides for payments to persons who are disabled in any way and are unable to work or are without sufficient income.

(e) Old Age Benefits

The province, pursuant to the Old Age Assistance Act, R.S.N.B. 1973 c. O-3, may make an agreement with the Minister of National Health and Welfare on behalf of the Government of Canada to provide for a general scheme of old age assistance in the Province. Assistance is paid to a person who has attained the age of sixty-five (65) years.

Civil servants contribute to a pension fund and there are various private pension funds in the Province.

(f) Survivors' Benefits

The Workmen's Compensation Act, R.S.N.B. 1973, c. W-13 provides that when a workman is killed as the result of an accident arising out of and in the course of his employment, or dies at a later date as the result of the injury the surviving dependents receive benefits. The benefits include necessary and proper expenses of burial; where the sole dependent surviving is a spouse, the spouse gets $300.00 a month for life; where the dependents are a spouse and one or more children, payments are $350.00 per month and $75.00 for each child per month.

Generally in the province pension plans and collective agreements deal with benefits to survivors.

(g) Employment Injury Benefits

Employees in the Province of New Brunswick are protected by the Workmen's Compensation Act, R.S.N.B. 1973 c. W-13.

An employer, for the purpose of the Act, includes any person having in his service a person under a contract of hire or apprenticeship, a municipality and the Crown in right of the Province of New Brunswick and of Canada. Through the definition of employee, however, the Act is not applicable to persons whose employment is of a casual nature, to farm labourers or domestic servants, or to members of the family of the employer who are under sixteen years of age. When injury or death is caused to a workman by accident arising out of and in the course of his employment, compensation is to be paid to the workman or his dependents unless, in the opinion of the Board, the accident was intentionally caused by the workman or was wholly or principally due to his intoxication or wilful misconduct and did not result in death or permanent disability of the workman.

An accident for the purposes of the Act includes by definition

> "... a wilful and intentional act, not being the act of a workman, and also includes a chance event occasioned by a physical or natural cause as well as disablement arising out of and in the course of employment, and where the disablement is caused by industrial disease, the date of the accident shall be deemed to be the date of the disablement."

Compensation is payable out of the fund created by the Act to the workman, in the case of injury, or to dependents in the case of the workman's death. By virtue of the definition section dependents are members of the workman's family who were wholly or partially dependent upon his earnings at the time of the accident.

Where a workman is injured, to aid in getting the workman back to work and to assist in removing or lessening any handicap, the Board may take such measures or make any expenditure that it feels are necessary.

The Board runs a modern Rehabilitation Centre where workers who have suffered a disabling injury are treated and helped to establish an alternative life style if their injury is such that they are unable to return to their former employment.

(h) Unemployment Benefits

As in other provinces, the federal unemployment insurance plan applies to New Brunswick.

(i) Family Benefits

Generally, Family Benefits are provided by the Federal Government. There is provision under the Social Welfare Act to make payments to families in need. Services to children and their families is a major concern of the Department of Social Services. The department offers services including: homemaker, counselling, and financial services to support the family in continuing to function.

6. NOVA SCOTIA

INTRODUCTION

The Province of Nova Scotia guarantees by its laws and enforces by various programs most of the provisions of Articles 6 to 9 of the International Covenant on Economic, Social and Cultural Rights.

The main statute pertaining to human rights in Nova Scotia is the Human Rights Act, Statutes of N.S. 1969, c. 11. The Preamble to the Act recognizes the inherent dignity and equal inalienable rights of all members of the human family. Recalling the Charter of the United Nations and the Universal Declaration of Human Rights, it affirms "the principle that every person is free and equal in dignity and rights without regard to race, religion, religious creed, colour, sex, ethnic or national origin".

The Preamble to the Act further states that:

> "the government, all public agencies and all persons in the Province have the responsibility to ensure that every individual in Nova Scotia is afforded an equal opportunity to enjoy a full and productive life and that failure to provide equality of opportunity threatens the status of all persons."

Section 3 of the Act declares that:

> "Every individual and every class of individuals has the right
>
> (a) to obtain admission to and enjoyment of accommodations, services and facilities customarily provided to members of the public;
>
> (b) to acquire and hold any interest in property;
>
> (c) to opportunities available for employment; and
>
> (d) to full membership privileges in any employees' organization, employers' organization, professional association or business or trade associations,
>
> regardless of the race, religion, creed, colour or ethnic or national origin of the individual or class of individuals."

The Act prohibits discrimination in the areas covered by subsections a), b), c) and d) of the above section on the basis of race, religion, creed, colour, ethnic or national origin, sex and, in the area of employment, on the basis of age (between 40 and 65 yers of age), physical handicap and marital status.

The Act also establishes a procedure whereby individuals who believe their rights under the Act have been violated can seek redress. The Human Rights Commission of Nova Scotia is empowered to receive or initiate complaints with regard to alleged violations of the Human Rights Act. If the Commission is unable to settle the dispute satisfactorily, the Minister responsible for the Act may appoint a Board of Inquiry. Under Section 26 (A) of the Act, the Board may order any party who has contravened this Act to do any act or thing that constitutes full compliance with the Act and to rectify any injury caused to any person or class of persons or to make compensation therefore. Any person who does anything prohibited by the Act or refuses to comply with any order made under the Act is guilty of an offence and liable on summary conviction to the imposition of a fine (Section 29).

ARTICLE 6: THE RIGHT TO WORK

A. The principal laws and regulations of Nova Scotia designed to promote and safeguard the right to work are:

(i) the Human Rights Act, c. 11, Statutes of Nova Scotia 1979, as amended 1970, 1971, 1972, 1974, 1977;

(ii) the Labour Standards Code and Regulations, c. 10, Statutes of Nova Scotia, 1972, as amended 1974, 1975, 1976, and 1977; and

(iii) the Civil Service Act, R.S.N.S. 1976, c. 34, and Regulations under the Civil Service Act, May 1978.

B. (1) Access to employment

Freedom of choice of occupation is not proscribed in Nova Scotia. Freedom of choice may however be subject to the limitations imposed by relatively high unemployment in certain industries.

Section 8 of the Human Rights Act prohibits discrimination in employment or any term or condition of employment because of an individual's race, religion, creed, colour or ethnic or national origin. This section does not apply, however, to

(a) a domestic employed and living in a single family home; or

(b) an exclusively religious or ethnic organization or an agency of such an organization that is not operated for private profit and that is operated primarily to foster the welfare of a religious or ethnic group with respect to persons of the same religion or ethnic origin, as

> the case may be, if religion, creed, colour or ethnic or national origin is a reasonable occupational qualification.

Section 11A of the Act prohibits discrimination in employment, conditions of employment, or continuing employment, because of the sex of an individual or class of individuals, unless there is a bona fide occupational qualification based on sex.

Section 11AB prohibits discrimination in employment because of marital status. Section 11B prohibits discrimination against individuals between the ages of forty and sixty-five, and against an individual because of a physical handicap unless the nature and extent of the handicap reasonably precludes performance of the particular employment.

The Civil Service Act provides that:

> "Appointments to the Civil Service shall be made without regard to race, religion, creed, colour, ethnic or national origin, sex, marital status, age or physical handicap" (Section 22A),

and that:

> "Examinations shall be open to all persons who may be eligible for appointment to a position in the Civil Service in accordance with this Act and the regulations without regard to race, religion, creed, colour, ethnic or national origin, sex, marital status, age or physical handicap." (Section 32).

The Regulations under the Civil Service Act provide that:

> "No person shall be eligible for appointment to the Civil Service unless the Commission (Civil Service Commission) is satisfied that his age, health, citizenship, residence, habits and character are such that he is a suitable person for appointment to the Civil Service" (Section 2).

Section 3 of the Regulations provides that the Commission shall maintain a list of eligible applicants and Section 34 of the Act provides that eligible persons must be listed in order of merit, that veterans of World War I and World II be placed on the list ahead of other candidates and that persons who reside or have resided in the Province be placed on the list ahead of candidates who do not or have not resided in the Province.

Section 35 of the Act further provides that no person shall be appointed to the Civil Service unless he is a Canadian citizen or a British subject. This Section does not apply, however, to any office or positions the duties of which require, in the opinion of the Governor in Council, special professional, technical or administrative ability or training.

(2) Policies and techniques to achieve steady economic, social and cultural development

In 1974, the province entered into a ten-year General Development Agreement with the federal government to facilitate joint cooperation in initiatives for the economic and socio-economic development of Nova Scotia. The objectives of the Agreement are:

> "(a) to encourage the expansion or maintenance of viable, long-term employment opportunities and optimum quality of life within Nova Scotia;
>
> (b) to increase the earned incomes of the people of Nova Scotia; and
>
> (c) to assist in the development of a dynamic and creative provincial economy which will encourage the growth and stability of economic activity in the province."

In seeking to achieve these general objectives, the agreement provides that the governments will jointly pursue a consistent and coordinated course of action involving specific sectorial and geographic approaches.

It is specified in the Agreement that:

> "19. All contracts for the performance of initiatives shall be awarded without discrimination by reason of race, sex, age, marital status, national origin, colour, religion or political affiliation; it being agreed, however, that the foregoing shall not prevent the implementation of special measures to benefit native people or disadvantaged groups."

(3) Organization of the employment market

Employment agencies are prohibited from accepting inquiries in connection with employment from any employer or prospective employee that directly or indirectly expresses any limitation, specification or preference or invites information as to race, religion, creed, colour or ethnic or national origin, and employment agencies are prohibited from discriminating against "any individual because of the individual's race, religion, creed, colour or ethnic or national origin." (Human Rights Act, Section 8 (2)). This prohibition extends to discrimination against individuals because of their sex or marital status (Section 11A (2)), or age (40-65) or physical handicap unless related to employment performance (Sec. 11B).

(4) Technical and vocational guidance and training programs;

There are thirteen general vocational training schools in the province. Courses are based on labour market requirements. Financial assistance in support of these schools is received from the federal government which buys services from the provincial educational system under the Canada Manpower Training Program.

The system of apprenticeship in the province is administered by the Ministry of Labour, which, through a Provincial Apprenticeship Board assisted by trade advisory boards, regulates the issuing of apprenticeship agreements with employers; arranges for courses of instruction in schools; regulates the hours of classroom and on the job instruction, the giving of trade tests and issuing of certificates, the maximum hours of work and minimum rates of wages for apprentices in various trades, and all other aspects of the system.

Apprentices must be at least 16 years of age and must have academic and aptitude qualifications. Pay must in no case be less than the minimum wage for the province, and must be established as a percentage of the prevailing wage rate of journeymen in the place of employment. The average term of apprenticeship is four years, and the apprentice's pay during that time increases from 50 percent to 90 percent of the journeyman's rate. Designated trades in Nova Scotia include: Motor Vehicle Mechanic, Bricklayer, Carpenter, Plumber, Cook, Electrician, Machinist, Lineman.

The Regulations under the Civil Service Act provide that the Civil Service Commission may grant civil servants special leave of absence with or without pay for educational purposes (Section 50A).

The Regulations also state that:

> "The Deputy Heads and such others as they deem advisable shall, with the assistance and under the direction of the (Civil Service) Commission, foster and aid employee training programs for the purpose of improving the quality of work in the Public Service and assisting employees to qualify for advancement." (Section 68).

(5) Protection against arbitrary termination of employment

Nova Scotia workers are protected against arbitrary termination of employment by various clauses contained in collective agreements which have been negotiated with their employers and by provisions of the Labour Standards Code and of the Regulations under the Civil Service Act.

Sections 27, 28 and 29 of the Labour Standards Code protect an employee from discharge or layoff because of garnishment proceedings against that employee, or because the employee has made a complaint or testified or is about to testify in any proceedings under the Act.

Sections 56 and 56A of the Code protect a female employee from dismissal because of pregnancy or because of absence from work during a limited period on the adoption of a child. The employee is allowed leave of absence in both cases with permission to resume work with no loss of seniority or other accrued benefits.

Sections 67A to 74 of the Code, prohibit discharging or suspending without just cause an employee with ten years of service. Employees with less than ten years of service and who are not guilty of wilful misconduct, disobedience or neglect of duty are entitled to from one to eight weeks' notice or proportionate pay equal to their foregone wages. Notice is not required under conditions of shutdown or reductions of operations for reasons beyond the control of the employer, nor is notice required in the construction industry.

In all cases where an employee believes he or she has been discharged contrary to these provisions, complaints may be made to the Director of Labour Standards in accordance with specified procedures.

Section 51 (2) of the Regulations under the Civil Service Act, protects the right of a female civil servant who has been employed for at least one year against discharge because of pregnancy or because of absence from work on the adoption of a child five years of age or younger.

Sections 56 to 60 provide that a civil servant other than an employee on a temporary, probationary or term basis may not be discharged except for wilful misconduct or disobedience or neglect of duty or incompetence. Any permanent civil servant discharged for one of these reasons is informed in writing of the reason for his or her dismissal. However, a permanent employee may be laid off because of shortage of work or funds or because of the discontinuance of a function or a reorganization of a function, provided that the employee is so notified by the Civil Service Commission with at least 40 days' notice or an equal amount of pay, and provided that the employee is considered for appointment to another position.

(6) Protection against unemployment

Living allowances during unemployment are provided by the federal government.

C. Information on the level of employment and extent of unemployment . . .

In 1977, the population of Nova Scotia was approximately 836,000. The labour force was approximately 333,000, consisting of members of both sexes over the age of fifteen. The rate of unemployment was 10.7 percent.

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

1. Legislation

Nova Scotia legislation and regulations affecting the remuneration of workers include:

(i) the Labour Standards Code, S.N.S., 1972, c. 10; and

(ii) the Regulations under the Civil Service Act, May, 1978.

2. Principal methods for fixing wages

For those workers covered by collective agreements, pay is usually established through the collective bargaining process.

The Labour Standards Code, Sections 42 to 45, provides for the drawing-up and observations of schedules of wages and hours of work for the construction industry.

Sections 46 to 54 of the Code provide for a Minimum Wage board which fixes the minimum wage and the appropriate periods of work for various classes of employees, and directs the implementation of these wage scales.

Sections 75 to 85 of the Code require employers to pay their workers within specified intervals and in lawful currency or by cheque, and protects the worker in the recovery of unpaid wages.

The Mechanics Lien Act protects workers from loss of wages by attaching a lien in respect of any work or service performed, upon the estate or interest of the owner. The Act establishes a priority for the claim of the worker as against other claims.

The Regulations under the Civil Service Act, Sections 17 to 24, provide for the payment of salaries with periodic increments for meritorious service. Requirements for the payment of increased pay during a temporary period of service in a higher position, shift premiums, overtime pay, and compensation for standby time, are specified in the Regulations.

Sections 53 and 54 of the Regulations also provide for a Public Service Award to employees on retirement due to age or mental or physical incapacity. The Award is paid on a graduated scale to employees with from three to thirty years' service, and is based on the salary which the employee was receiving on the date of his or her retirement.

4. Statistical data on wages

Minimum wage rate in Nova Scotia was $2.75 an hour, effective January 1, 1977. This was an increase from $2.50 in 1976 and $2.20 in 1975. The normal work week is forty hours.

Average weekly earnings in industries where 20 or more workers are employed (excluding those employed in agriculture, fishing, trapping, service industries and public administration) was $214.72 at the end of 1977. This has risen from $177.79 at the end of 1975 and $103.42 at the end of 1970.

The Canadian Consumer Price Index showed an increase to 160.8 from the base figure of 100 in 1971.

5. Conditions of work and equal pay for work of equal value

The Human Rights Act prohibits discrimination, with regard to conditions of employment, on the basis of race, religion, creed, colour, ethnic or national origin, sex and marital status, or age (40-65) or physical handicap unless related to employment performance (Sections 8, 11, 11A, 11AB, 11B).

Section 42 (4) of the Labour Standards Code provides that, in the establishment of pay schedules in the construction industry, the Minister of Labour shall not approve a schedule that prescribes wages that are less for a female employee than for a male employee.

Section 48 (2) of the Code provides that the Minimum Wage Board, after fixing minimum wages, may by order, with the approval of the Governor in Council, apply the minimum wage so fixed to all employees or to a group or class of employees in any industry, business, trade or occupation, or to any group or class of employees in all or in any two or more industries, businesses, trades or occupations.

Section 48 (3) further provides that the Board, without order, may grant written permission to an employer to pay to an employee who is handicapped a wage fixed by the Board lower than the minimum wage.

Section 55 of the Code provides that an employer and any person acting on his behalf shall not pay a female employee at a rate of wages less than the rate of wages paid to a male employee employed by him for substantially the same work performed in the same establishment, the performance of which requires substantially equal skill, effort and responsibility, and which is performed under similar working conditions. However, where an employer or person acting on his behalf establishes that a factor other than sex justifies a different rate of wages, a difference in the wages between a male and a female employee based on the factor does not constitute a failure to comply with this Section.

Section 57 of the Code provides a procedure for making a complaint in cases where an employee believes she has been denied equal pay, leave of absence, seniority or benefits to which she is entitled.

B. Safe and healthy working conditions

1. Legislation

Nova Scotia legislation and regulations regarding safe and healthy working conditions include:

(i) the Industrial Safety Act, R.S.N.S. 1967, c. 141; and

(ii) the Workmen's Compensation Act, c. 65 of the Acts of 1968, as amended, in particular Division XIII Industrial Accident Prevention, and Regulation 8 thereunder, First Aid Regulations.

2. Procedures to ensure health and safety

Procedures to ensure compliance with health and safety standards are established mainly in the Industrial Safety Act. Section 3 of the Act provides that:

> "(1) Every employer shall keep his industrial establishment in such a manner that the safety and health of persons in the establishment is not likely to be endangered.
>
> (2) Every employer shall take such precautions as are reasonable in the circumstances to ensure the safety and health of every person in the industrial establishment in which he is the employer."

The Minister of Labour may appoint inspectors who are empowered to inspect industrial establishment and make such examinations and inquiries as may be necessary to ascertain that the provisions of the Act and regulations are being complied with. The inspectors have power to administer an oath to and to summon any person to give evidence and to exercise such other powers as may be necessary or incidental to the carrying out of their functions under the Act. (Sections 5-7). Section 10 (1) of the Act provides that:

> "Where an inspector considers that any place, matter, machine, device or thing or any part thereof in an industrial establishment is a source of danger to the safety or health of persons employed therein or having access thereto, he
>
> (a) shall give such directions in writing to the employer or owner as the inspector considers necessary, directing him immediately or within such time as the inspector specifies
>
> (i) to take measures for guarding the source of danger, or
>
> (ii) to protect the safety or health of any person against dangers therefrom; and
>
> (b) may direct that any place, matter, machine, device or thing shall not be used until his directions are complied with."

The Act contains provisions prohibiting the use or sale of unsafe machines. It provides that the Governor in Council may make regulations respecting such matters and things as he considers necessary or expedient to ensure the safety, health and welfare of persons in or about industrial establishments.

The Minister of Labour may establish advisory committees, on which employers and employees are represented, to advise him on matters relating to industrial safety. He may also undertake research in this area and undertake programs to promote safety and health and to prevent accidents to persons in the course of their employment (Section 20-22).

Persons violating the Act or failing to observe its provisions or the regulation or any order given persuant to the Act or regulation is guilty of an offence and liable to a penalty on summary conviction (Section 23).

The Industrial Safety Act does not apply to some sectors of activity, such as mines and others. In these cases, however, provisions are generally made in other statutes for the health and safety of employees as is the case, for example, in the Mines Act.

The Workmen's Compensation Act provides for the setting up of a separate Division of the Workmen's Compensation Board, having a Director and an Executive Committee, and authorized to develop safety education and safety promotion programs, coordinate the industrial accident prevention programs of firms, industries and industrial associations with one another and with its own activities, and to maintain liaison with the Industrial Safety Division of the Department of

Labour. This body also collects work injury statistical reports, carries out investigations related to employment safety, and prepares recommendations for regulations in such matters for the approval of the Workmen's Compensation Board and the Governor-in-Council.

Regulation 8 under this Act stipulates the equipment, room and attendants required for the administration of First Aid, subject to the size of the establishment of the employer and the number of his workmen.

C. Equal opportunity for promotion

The promotion of workers in the private sector is in general the prerogative of management, subject to any conditions negotiated under collective agreements.

The Regulations under the Civil Service Act, Sections 6 and 7, provide that vacancies in the Civil Service be given publicity in the manner determined by the Civil Service Commission, and that employees be given the opportunity to submit applications for any other positions in the Civil Service.

An employee may be reclassified by the Civil Service Commission on the recommendation of the Head of the Department, or the Commission may decide that it is advisable to hold an examination for reclassification, in which case the same criteria of eligibility as for a first appointment apply, and consideration must be given to the seniority and efficiency of the applicant employees (Sections 13-15).

D. Rest, leisure, limitation of working hours and holidays with pay

1. Legislation

Hours of work, holidays and vacations are subject to the process of collective bargaining for those employees covered by collective agreements.

The principal laws and regulations of Nova Scotia designed to promote and safeguard the right to rest, leisure, reasonable limitation of working hours, and periodic holidays with pay, are:

(i) the Labour Standards Code, which regulates the vacations with pay, hours of work and period of rest for workers in general;

(ii) Regulations under the Civil Service Act, which regulate days and hours of employment and rest; vacations with pay; statutory holidays and the rate of compensation for work performed on such holidays, and special leave with pay for employees in the Civil Service.

2. Practices in regard to work and leisure

Sections 30 to 34 of the Labour Standards Code provide that any worker, after a twelve-month period of employment, shall receive a two-week vacation with advance pay or, if he or she has worked for less than ninety percent of the regular working hours over the preceding twelve-month period, the employee shall receive vacation pay equal to four percent of his or her wages during that period.

If employment is terminated within the twelve-month period the employee is entitled to a proportionate amount of vacation pay.

The employee's total remuneration, including board or lodging provided by the employer, is the amount of pay on which vacation pay is calculated.

Vacation pay is deemed to be a mortgage or lien on the assets of an employer and it has priority over all other liens, charges or mortgages except liens for wages due to workmen of that employer.

Sections 35 to 41 of the Code provide for "general holidays" including News Year's Day, Good Friday, Dominion Day, Labour Day and Christmas Day, for which the employee will receive regular pay. It is provided that a substitute holiday with pay will be granted if a general holiday falls on a non-working day for the employee. Section 39 requires the employer to pay time-and-a-half to any employee who is required to work on a general holiday, or else to grant an additional day following his or her annual vacation. These benefits apply to any employee who has worked at least fifteen days during the thirty days immediately preceding the holiday.

Sections 58 to 64 empower the Minimum Wage Board to set the hours or work per day or per week for employees in industry or any section of industry, and the rest intervals within each day. Employers are required to grant each employee a twenty-four-hour day of rest in every period of seven days, whenever possible on the Lord's Day as defined in the Lord's Day Act of Nova Scotia.

Section 25 of the Regulations under the Civil Service Act requires civil servants to work forty hours a week from Monday through Friday. The hours are from 8:30 to 4:30 with one hour for luncheon, and two rest periods of fifteen minutes each. Flexible arrangements are permitted with the approval of the Deputy Head of the Department and the Civil Service Commission.

Employees in the Civil Service are entitled to three weeks vacation leave with pay each year during their first ten years of service, to four weeks during the next ten years and to five weeks thereafter. Those employed in the Medical

Services, Dental Services and Health Services Management are entitled to four weeks vacation leave with pay after five years of service; employees in the Health Services Management "A" category are entitled to four weeks after four years of service. (Section 27 of the Regulations under the Civil Service Act).

Civil servants are required to take their vacation during the year of service, but a carryover entitlement of not more than five days may be granted by the Deputy Head of the Department, such carryovers to be used within a five-year period (Sections 28 to 32).

Sections 36 to 38 establish the general holidays in the Civil Service: New Year's Day, Good Friday, Easter Monday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, one-half day on Christmas Eve, where it falls on a normal working day, and one locally-proclaimed civic holiday (usually the first Monday in August). Substitute holidays are granted where these general holidays fall on the employee's day of rest. When an employee is required to work on a paid holiday he or she receives compensation equal to two-and-a-half times his or her regular rate, and equal to triple time for any overtime hours worked on such paid holidays.

Special leave with pay or with partial pay may be granted for limited periods for various reasons. Civil servants are also entitled to leave of absence with pay to serve on a jury, to attend, as a witness, court proceedings under authority of the court, to attend the funeral of a family member, to participate in personnel selection procedures, to take military training or, on occasion of the birth of a child, in the case of a male employee, for one day during the confinement of his wife.

Pregnant women are entitled to a leave of absence without pay of up to eighteen weeks at the period of delivery. Compensation for loss of salary during that period is accorded through the federal Unemployment Insurance Program.

3. Workers in continuous operations

Compensation for employees required, because of the continuous nature of operations in the work place, to work on days during which they would be entitled to holidays with pay, is provided for under Section 39 of the Labour Standards Code.

ARTICLE 8: TRADE UNION RIGHTS

A. Legislation

The principal legislation designed to promote, safeguard or regulate trade union rights comprises:

(i) the Human Rights Act;

(ii) the Trade Union Act, c. 19, Statutes of Nova Scotia 1972, and amendments thereto, 1977 and 1978;

(iii) Regulations pursuant to the Trade Union Act, 1972, and additional Regulations 1973 and 1976; and

(iv) the Civil Service Collective Bargaining Act, Acts of 1978, c. 3.

B. Right to form and join trade unions

Section 3 of the Human Rights Act provides that

> "Every individual and every class of individuals has the right . . .
>
> (d) to full membership privileges in any employees' organization, employers' organization, professional association or business or trade associations,
>
> regardless of the race, religion, creed, colour or ethnic or national origin of the individual or class of individuals."

Section 9 of the Code prohibits any employee organization from excluding any individual from full membership, and from expelling, suspending or otherwise discriminating against any of its members or discriminate against any individual in regard to his employment by any employer, because of the individual's race, religion, creed, colour or ethnic or national origin. Section 11A(2) extends this prohibition to include discrimination because of sex or marital status and Section 11B extends this prohibition to discrimination on the basis of age (40-65) or physical handicap unless related to employment performance.

Every employee has the right to be a member of a trade union and to participate in its activities according to the Trade Union Act, Section 12 (1).

Section 22 of the Act provides that a trade union may be certified as the bargaining agent for the employees of a unit by the Labour Relations Board if forty percent of the employees hold membership in the union.

Section 24 provides for the taking of a vote by the Board to determine the wishes of the employees in the unit with respect to the certification of the applicant trade union as their bargaining agent. Where the majority of the votes cast are in favour of the applicant trade union the Board shall certify it as the bargaining agent of the employees in the unit.

Where, in the opinion of the Board, due to contraventions of the Act or regulations by an employer or employer's organization, the vote does not reflect the true wishes of the employees, the Board may, in its discretion, certify the trade union as the bargaining agent of the employees in the unit.

On the other hand, an application may be dismissed if the Board is of the opinion that the trade union or a representative of the trade union has contravened the Act or regulations in a way that the vote does not reflect the true wishes of the employees in the unit.

The Act further provides that no trade union which is so dominated or influenced by an employer that its fitness to participate in collective bargaining is impaired, or which discriminates against any person because of sex, race, creed, colour, nationality, ancestry or place of origin, shall be certified as the bargaining agent of the employees, and that no agreement entered into between that trade union and that employer shall be deemed to be a collective agreement.

Section 27 of the Act provides that a union may lose its certification, after a vote to that effect, if a significant number of its members allege that it is not adequately fullfilling its responsibilities or that it does no longer represent a majority of the employees in the unit.

Provision is made in the Act for continued recognition of a trade union when an employer sells, leases or transfers his business or any of its operations (Section 29).

Section 51 of the Trade Union Act prohibits employers from participating in or interfering with the formation or administration of a union, although they may permit employees or trade union representatives to attend to trade union business and use the premises of those employers during working hours. Employment must not be refused for reasons related to trade union membership, and no other penalties may be imposed on employees by reason of their union activity. Under Section 52, unions are prohibited from expelling or suspending their members by applying rules in a discriminatory manner.

Section 56 (1) further states that no person shall seek by intimidation or coercion to compel a person to become or refrain from becoming or cease to be a member of a trade union.

Section 57 provides, however, that the parties to a collective agreement may insert in the agreement a provision requiring membership in a specified trade union as a condition of employment, or giving preference in employment to members of a specified trade union. It prohibits, though, any provision, in a collective agreement, requiring an employer to discharge an employee because of membership in, or activities on behalf of, a union other than the specified trade union.

The Trade Union Act does not apply to the provincial government or to its employees, although, it applies to agencies of the government and their employees other than those appointed by the Civil Service Commission or by the Governor in Council (Section 3).

The Civil Service Collective Bargaining Act implicitly recognizes the right of government employees to be members of trade unions. The Act recognizes the Nova Scotia Government Employees' Association as the representative of employees of the government in negotiations to effect collective agreements (Section 13) and, in Section 12, it states that the Civil Service Commission and the Association may determine by consultation which employees are in a bargaining unit. Section 11 specifically excludes the following employees:

(a) appointed by Governor in Council;

(b) locally engaged outside the Province;

(c) employed on a casual basis for less than twelve continuous months;

(d) appointed on a temporary or summer employment basis unless he has been so employed for a continuous period of six months or more; or

(e) employed in a managerial or confidential capacity.

The Regulations under the Civil Service Act empower the Civil Service Commission to enter and execute agreements with the Nova Scotia Government Employees' Association in respect of government employees in all categories, such agreements constituting the terms and conditions of employment of those employees (Section 74 to 82).

Section 41 of the Civil Service Collective Bargaining Act prohibits the employer from refusing to employ or terminating the employment of any person or discriminating against any person, among other things, because of membership in the Association, because the person testifies in a proceeding under the Act or because the person has made a complaint under the Act.

Section 42 restricts the Association from engaging in Association business at the place of employment during working hours except with the consent of the employer and prohibits the Association from coercion, intimidation or discrimination against an employee.

C. The right of trade unions to federate

This right is not guaranteed nor is it prohibited in any legal sense in Nova Scotia. In practice, unions freely enter into federations both national and international in character.

D. Right of trade unions to function freely

Trade unions in Nova Scotia are at liberty to function freely in the context of the laws and regulations governing their operations. They are protected against unfair practices by employers who are subject to prosecutions in case of violations of the provisions of these statutes. The unions themselves are subject to prosecutions in case of violations of the provisions of these statutes.

E. Right to strike

The Trade Union Act governs the exercise of the right to strike. Sections 45 to 50 stipulate that a strike is illegal while a collective agreement is in force, and until seven days have elapsed after the report of a conciliation board to the Minister of Labour. A vote must be taken to authorize the strike and forty-eight hours must elapse after the vote has been taken before a strike goes into effect.

Civil servants are prohibited from strike action according to Section 39 (1) of the Civil Service Collective Bargaining Act. Section 40 of the Act further states that the Association shall not sanction, encourage, or support, financially or otherwise, a strike by its members or any of them who are governed by the provisions of the Act.

Police constables or officers, and employees of government boards, commissions or agencies, are required not to strike until a further thirty-day period has elapsed after normal conditions have been met (Trade Union Act, Section 47 (2)).

ARTICLE 9: RIGHT TO SOCIAL SECURITY

1. Legislation and regulations of Nova Scotia relating to the social security system include:

(i) the Social Assistance Act, c. 16, Statutes of Nova Scotia 1970, and Acts of 1974, 1975 and 1977 to amend the Social Assistance Act;

(ii) the Family Benefits Act, c. 8, Acts of 1977;

(iii) the Health Services and Insurance Act, c. 8, Statutes of Nova Scotia 1973, and Acts of 1974 and 1977 to amend the Health Services and Insurance Act;

(iv) the Workmen's Compensation Act, c. 65, Acts of 1968, as amended; and

(v) the Day Care Services Act, c. 13, Statutes of Nova Scotia 1970-71.

2. (a) Medical Care

All residents of Nova Scotia are eligible to be covered by the Health Insurance plan for hospital services and for all or most of the medical services they require. Residents of the province 65 years of age and over are also covered in respect to prescribed drugs (Health Services and Insurance Act, Sections 3 and 3A).

The cost of the insurance plan is shared by the federal government and the provincial government.

The physicians of the province are paid on a fee-for-service basis, according to tariffs set by the Health Services and Insurance Commission in consultation with the Medical Society of Nova Scotia. The physicians may, however, make a direct charge for services in addition to the tariff, if they make this decision known in advance to their patients and to the Commission. Physicians, if they prefer, may elect to operate private practices outside the insurance plan with a direct charge to patients. Patients may choose their own physicians.

(b) Cash sickness benefits

Civil servants of Nova Scotia are provided with cash sickness benefits under the Civil Service Act. An employee is entitled to a varying number of days of sick leave with pay according to length of service.

(c) Maternity benefits

Maternity benefits are provided through the Unemployment Insurance Program of the federal government.

(d) Invalidity benefits

Benefits are paid to disabled persons, under the Family Benefits Act, Section 5.

(e) Old age benefits

Special social assistance benefits based on need are provided to residents of the province of sixty-five years of age and over as a supplement to the federal government's Old Age Security plan (Social Assistance Act, Part VI).

Home for the aged are provided by municipalities with assistance from the provincial government (Social Assistance Act, Section 26).

(f) Survivors' benefits

Survivors' benefits are paid to residents of Nova Scotia in general through private pension and insurance schemes. However, the Workmen's Compensation Act, Section 30, provides for payment of a special amount of $500 (in addition to funeral expenses) to a widow, with a pension of $307 a month, and a pension on behalf of each child of $64 per month, where it has been shown that the death of the worker was due to injury at his place of work. An orphan's pension under this Act is $84 a month; monthly pensions for other dependents vary from $103 to $137. Invalid widowers also receive survivors' benefits. These rates were effective January 1, 1978. These benefits vary periodically according to increases in the Consumer Price Index.

(g) Employment injury benefits

Employment injury benefits are provided under the Workmen's Compensation Act. Benefits are at a rate of 75 percent of earnings up to maximum earnings of $12,000 a year. Minimum weekly compensation is $82.50.

Compensation is paid for disablement due to accidents at the place of work or due to industrial disease. Partial amounts are paid when the workman is able to work at a less remunerative occupation.

Employers are assessed a levy to cover the cost of benefits under the Workmen's Compensation Act.

Compensation claims in Nova Scotia for work injury averaged, during the period 1968-1977:

16,293	for medical aid only,
12,032	for non-fatal disabling injury,
32	for fatal injury.

(i) Family benefits

Cash benefits are paid to residents of Nova Scotia under two assistance plans. Social Assistance, generally of a short-term nature, is paid to persons in need as defined by the social service committee of a municipality. The amounts of assistance granted are regulated by the provincial government which pays the major part of the cost.

Assistance is paid under the Family Benefits plan to persons or families in need, where the cause of need has become or is likely to be of a prolonged nature. This plan is administered by the province.

Day care centres for children are provided within municipalities with the assistance of the provincial government, under the federal government's cost-share program, the Canada Assistance Plan. Parents may pay a fee for the attendance of their child, but parents in need are provided with free day care services.

7. ONTARIO *

Comments on the rights recognized in Articles 1 - 5 as relevant to the rights recognized in Articles 6 - 9

> Guideline I, E(1): The right to self-determination, as recognized in Article 1 of the Covenant.
>
> Guideline I, E(2): Measures taken, difficulties encountered and progress achieved as regards ensuring the exercise of the rights covered by Articles 6-9 without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 2(2));

NON-DISCRIMINATORY MEASURES TAKEN

In 1962, The Racial Discrimination Act, 1944, The Fair Employment Practices Act, 1951, The Female Employees Fair Remuneration Act, 1951, and The Fair Accommodation Practices Act, 1954 were consolidated as The Ontario Human Rights Code.

In 1972, the Code was further revised to include The Women's Equal Employment Opportunity Act and The Age Discrimination Act.

(A) Coverage in the Different Social Areas

(1) Employment

In 1966, The Age Discrimination Act was enacted to prohibit discrimination against people between the age of 40 and 65. An increasing proportion of the active labour force was in this age range and facing discrimination because of technological and organizational changes and an employer preference for younger workers.

In 1967, an exemption for employers with fewer than five employees was eliminated.

In 1968, discriminatory advertising with respect to age was prohibited, to address an increasing tendency to specify younger workers in print advertising and by employment agencies. Also, the "Equal Pay - Equal Work" Section was repealed and re-enacted as Section 19 of The Employment Standards Act, 1974.[1]

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* Report prepared by the Government of the Province of Ontario.

In 1969, the Section exempting an exclusively non-profit religious, philanthropic, educational, fraternal or social organization was amended to include any case where race, creed, colour, nationality, ancestry or place of origin as a reasonable occupational qualification. This was intended to relate such characteristics directly to the duties of the job as they bear upon the religious (etc.) nature of the employment organization.

In 1972, marital status became a ground for discrimination, to address inequities, particularly directed against married, separated and divorced women, and to eliminate inequitable differentials in employment benefits such as life insurance, pension and health plans.

Also in 1972, Section 6(a) was added to provide for special employment programs (affirmative action) in response to the impact, on minorities and women, of historical inequality of employment opportunity. Membership in self-governing professions was also included, to address the difficulties in gaining Ontario licences and other credentials experienced by professionals who are trained abroad.

(2) Housing and Commercial Space

In 1965, the Code was amended to cover apartments in any building containing more than three self-contained dwelling units, rather than six as formerly. In 1967, all self-contained dwelling units were covered, to avoid sanctioning legislative discrimination by mathematical formula.

In 1965, the Code was expanded to cover discrimination in the occupancy of commercial space, to provide protection for business persons.

In 1972, sex as a ground for discrimination was extended beyond employment to housing, because more women were experiencing discrimination in housing occupancy. Also, the housing provisions were enlarged from "self-contained dwelling units" to cover any housing accommodation except where the owner or his family occupies part of the premises and shares a bathroom or kitchen with tenants.

(3) Public Services and Facilities

In 1972, sex or marital status discrimination in public accommodation, services and facilities was prohibited to address restrictions on women's access to these services and facilities.

(4) Discriminatory Signs and Notices

In 1972, sex and marital status were added as grounds for discrimination in the display of discriminatory signs and notices.

(5) Reprisals

In 1968, Section 5 was added to safeguard all victims of or witnesses to discrimination from the fear of retaliation for bringing to attention alleged contraventions of the Act.

(B) Jurisdiction

In 1965, the Code was extended to cover the Government of Ontario and all Crown agencies and, in 1969, The Age Discrimination Act was amended to bind the Crown. This was a response to an increasing number of allegations of employment discrimination by Crown employees.

(C) Complaint Procedures

In 1972, the procedure of lodging a complaint was revised so that persons other than the victim of an alleged discriminatory act could file a complaint, as could the Ontario Human Rights Commission itself.

Also, an appeal procedure to the Supreme Court of Ontario was provided from a report of a Board of Inquiry.

(D) Penalties

In 1968, the maximum fine for contravention of the Act was raised from $100 to $500 for an individual and from $500 to $2,000 for a corporation or trade union. In 1972, maximum fines for non-compliance were increased from $500 to $1,000 for individuals and from $1,000 to $5,000 for organizations. These measures reflect the seriousness with which infractions of the Code are viewed and are intended as a deterrent to violations. For complainants, these changes provide assurance that acts of non-compliance merit more than token penalties.

(E) Code Review

The Ontario Human Rights Code Review, in its report "Life Together" (submitted in 1977), made 97 recommendations to clarify and strengthen the administration of the human rights of the people of Ontario. These recommendations[2] are presently under consideration and the government has announced its intention to introduce amendments to the Code.

> Guideline I, E(3): To what extent non-nationals are guaranteed the rights dealt with in Articles 6-9;

The Ontario Human Rights Code[3] prohibits discrimination because of nationality, ancestry and place of origin. All non-nationals are protected from discrimination in Sections 1, 2, 3, and 5. Section 4 (employment) protects all persons legally eligible to work in Canada in all respects except membership in self-governing professions (Section 4a(2)), which does not apply to non-nationals.

Metropolitan Police Forces in Ontario are not governed by the nationality provisions of the Code, by virtue of The Police Act.[4] This stipulates that only Canadian citizens may be hired.

Also, The Public Officers Act[5] limits permanent employment in any public office in Ontario to Canadian or British subjects by birth or by naturalization, but does not prevent employment on a temporary or "probationary" appointment. In fact, such probationary appointments may be renewed indefinitely or until such time as the employee is eligible for and obtains citizenship.

The Juries Act limits eligibility and liability to serve as a juror on juries to Canadian citizens resident in Ontario.[6]

> Guideline I, E(4): Measures taken, difficulties encountered and progress achieved, under Article 3, as regards ensuring the equal rights of men and women to the enjoyment of the rights set forth in Articles 6-9;

The Ontario Human rights code[1], in all its sections, provides protection from discrimination because of sex.

Section 6(a) of the Code enables the Ontario Human Rights Commission to approve affirmative action programs to increase the employment of women and minorities.

> Guideline I, E(5): Limitations which may have been imposed upon the exercise of the rights set forth in Articles 6-9, the reasons therefore, and safeguards against abuses in this regard, with copies of the relevant laws, regulations and court decisions (Articles 4 and 5);

The Ombudsman Act[2] created the office of Ontario Ombudsman. Section 15 of the Act empowers the Ombudsman to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a governmental organization and affecting any person or body of persons in his or its personal capacity. The Ombudsman may launch an investigation on the basis of a complaint or at his/her own initiative. The Ombudsman's investigating powers may be exercised notwithstanding any provision in any Act to the effect that any decision, recommendation, act or omission is final or that no proceeding or decision shall be challenged, reviewed, quashed or called in question.

Under Section 20 of the Act, the Ombudsman may require any officer, employee or member of any governmental organization to furnish information in respect to a matter being investigated, and to produce documents or things which in the Ombudsman's opinion relate to the matter under investigation. The Ombudsman may examine under oath any person who is an officer or employee or member of any governmental organization. Persons bound by specific secrecy provisions and Acts cannot be required to supply information in contravention of those requirements. The ordinary rules of privilege which apply in court are also applicable.

Under Section 21, where the Provincial Attorney General certifies that the giving of information could interfere with the detection of offences, or might involve the disclosure of the deliberations or proceedings of the executive council or of a committee of the executive council relating to matters of a secret or confidential nature and would be injurious to the public interest, the Ombudsman cannot require the information. Subject to the foregoing, the rule of law which authorizes or requires the withholding of any document or the refusal to answer any question, on the ground that the disclosure or the answering would be injurious to the public interest, does not apply in respect of any investigation by or proceeding before the Ombudsman.

After making the investigation, the Ombudsman may find that the subject matter of the investigation appears to have been contrary to law, discriminatory or was in accordance with a rule of law, statutory provision, or practice that is or may be unreasonable, etc; was based on a mistake of law or fact; was wrong; or was a discretionary power exercised for an improper purpose or on irrelevant grounds. In these cases, the Ombudsman may decide that the matter should be rectified, cancelled, varied, altered, that reasons should be given, or any other steps taken. He shall report his opinion and his reasons therefore, to the appropriate governmental organization and make such recommendations as he sees fit, requesting this organization to notify him, within a specified time, of the steps it proposes to take to give effect to his recommendations. If no action is taken, the Ombudsman may, in his discretion, send a copy of the report and recommendations to the Premier and thereafter to the Assembly as he thinks fit. The complainant is to be informed of the result of the investigation and, where no adequate and appropriate action is taken within a reasonable time, on the recommendation of the Ombudsman.

The Conveyancing and Law of Property Act, s.22 specifies that any covenant made after March 24, 1950 annexed to and running with the land that restricts the sale, ownership, occupation or use of land because of race, creed, colour, nationality, ancestry or place of origin of any person is void and of no effect.

ARTICLE 6: THE RIGHT TO WORK

Guideline II, A: Principal laws, administrative regulations, collective agreements and court decisions designed to promote and safeguard the right to work as defined in this Article.

Guideline II, B(1): Information on: The right of everyone to gain his living by work which he freely chooses or accepts, with particular reference to freedom from compulsion in the choice of employment and guarantees against discrimination in regard to access to employment.

The Ontario Human Rights Code

The Ontario Human Rights Code[1] ensures the right of everyone to equal opportunity to work in any occupation for which he or she qualifies, and the freedom from discrimination in employment because of race, creed, colour, nationality, ancestry, place of origin, age, sex or marital status. One limitation is that age is presently defined in the Code as 40-65, and it, therefore, cannot protect the right of a person to work beyond the normal retirement age of 65.

In addition to the provisions prohibiting discrimination, section 9 of The Ontario Human Rights Code provides that the Ontario Human Rights Commission must forward the principle of equality in dignity and rights; must promote an understanding and acceptance of and compliance with the Code; must develop and conduct research and educational programs designed to eliminate discriminatory practices related to race, creed, colour, nationality, ancestry, place of origin, age, sex and marital status.

The Employment Standards Act, 1974[2]

The absolute right of an employer to dismiss an employee at random and without reason has been curtailed by several provisions contained in labour legislation and collective agreements, and by court decisions applicable to termination of employment. The Employment Standards Act, 1974 prohibits dismissal for specifically defined reasons. Thus, no employer may dismiss, discipline, suspend or threaten to dismiss, discipline or suspend an employee because of:

a) garnishment proceedings that are or may be taken against the employee[3];

b) pregnancy, if the employee has been employed for at least 12 months and 11 weeks immediately preceding the estimated date of delivery[4];

c) an employee's filing of a complaint or seeking to enforce his/her rights under the legislation[5];

d) the act of selling or purchasing a business[6].

Under the 'notice of termination' provision of The Employment Standards Act, 1974[7], the employment of an employee who has been employed for three months or more may be terminated only after the employer has given an advance notice of termination and such notice has expired. The duration of the notice of termination varies with the length of service of an individual employee. In mass termination cases, the duration of notice varies with the number of employees to be terminated at a time. The objectives of the notice of termination legislation are to facilitate job search; limit duration of unemployment; facilitate adjustment of workers' personal affairs; and to provide time for government action to alleviate employment problems associated with mass termination.

The Labour Relations Act[8]

The Act provides that a trade union which discriminates on the basis of race, creed, colour, nationality, ancestry, age, sex or place of origin will not be certified by the Ontario Labour Relations Board as the exclusive bargaining agent of employees.[9] An agreement between an employer and trade union that discriminates against any person on certain named grounds is deemed not to be a collective agreement.[10]

The Act protects persons from discrimination in employment because of their union membership or exercise of rights under the Act.[11]

The Act permits, and most collective agreements include, clauses requiring, as a condition of employment, the payment of union dues or membership in the union. The ability of a union to require an employer to discharge an employee for failure to comply with such a clause is limited by the Act.[12] By application to the Board, certain employees who have religious objections to joining trade unions may be exempted from such requirements.[13]

A duty is put upon trade unions that they not act in an arbitrary or discriminatory manner or in bad faith in representing the employees in their bargaining units, and similarly in exercising their powers to refer or assign persons to employment.[14]

Remedies are available, depending on the nature of the illegality, through the arbitration process under a collective agreement, or from the Labour Relations Board.[15] Many collective agreements contain provisions prohibiting discrimination amongst employees on the above grounds.

The Crown Employees Collective Bargaining Act, 1972[16]

Employees under this Act (those covered by various collective agreements) can be required to pay dues but not to be a member of the union, as a condition of employment. Those with religious objections can be exempted from the dues requirement.[17] The union has a duty of fair representation of employees imposed upon it.[18]

The Colleges Collective Bargaining Act, 1975[19]

This Act has the same provisions as set out in The Crown Employees Collective Bargaining Act, 1972, already cited.

The Public Service Act

A Provincial public servant may be dismissed for cause and issued a notice of dismissal setting forth the reasons therefore and advising him of his right to a hearing by the Public Service Grievance Board.[20]

Ontario Regulation 749, 1970, section 32, made under The Public Service Act, provides that all possible avenues must be explored (e.g. transfer, seniority rights, reclassification, etc.) before a public servant is released from employment due to shortage of work or funds.[21] In addition, the released employee must be notified of a suitable vacancy that may occur within one year after the release.

The Occupational Health and Occupational Safety of Workers Act, 1978[22]

This Act ensures that an employee's right to work is not denied due to a refusal to perform unsafe work.

COLLECTIVE BARGAINING AGREEMENTS

Specific references to right to work are rare in collective agreements. However, the vast majority of agreements state that employees do not have to join the union as a condition of hiring or continued unemployment. Most of the agreements that require membership in the union make this a condition only of continued employment after a probationary period, usually of 30 days.

The fundamental regulation governing dismissals in collective agreements is the restriction of mangement's authority such that management may dismiss an employee only with just cause. Where labour and management disagree on the fairness of a dismissal, there is a guaranteed right to have the final decision made by a third, neutral party, via arbitration. Over the years, a body of "arbitral jurisprudence" has developed with respect to dismissals and most arbitrators generally adhere to established precedent.

Guideline II, B: Information on: (2) Policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms of the individual;

(3) measures to ensure the best possible organization of the employment market, with particular reference to manpower planning procedures, the collection and analysis of employment statistics and the organization of an employment service;

(4) technical and vocation guidance and training programmes;

(5) protection against arbitrary termination of employment;

(6) protection against unemployment.

PRINCIPAL LEGISLATION

In addition to the legislation mentioned above, the following is the foremost relevant legislation.

The Apprenticeship and Tradesmen's Qualifications Act[23]

The Apprenticeship and Tradesmen's Qualifications Act provides for designating trades that are to be certified and thus serves as the basis for apprenticeship training in the Province of Ontario. The Act is administered by the Ministry of Colleges and Universities.

"Certification of Apprenticeship" is granted by the Ministry upon an apprentice's successful completion of a specified training program inclusive of both classroom and on-the-job training.

COLLECTIVE BARGAINING AGREEMENTS

Collective agreements reached between the companies and unions, through negotiations, place emphasis on protecting the employees' interests concerning job security, income maintenance, and fringe benefits. Typical provisions in collective agreements that have derived from these negotiations in regard to protection against unemployment include:

(a) advance notice and consultation;
(b) preferential employment rights;
(c) broadened seniority;
(d) training and retraining;
(e) severance pay;

(f) supplemental unemployment benefits; and
(g) work sharing agreements.

POLICIES, TECHNIQUES, MEASURES, AND PROGRAMS

Manpower Planning

Many Ministries of the Ontario Government have programs which significantly affect the labour market. In 1974 the Ontario Manpower Co-Ordinating Committee was created with representatives from various relevant Ministries for the tasks defined below, by the Premier of Ontario.

> "Firstly, that there is a clear need to fully coordinate the activities of the federal and provincial governments in the field of manpower policy; secondly, that there is a need to more fully coordinate manpower activities within the various ministries involved in the Ontario government; and thirdly, that the training and education be related to both the social and economic needs of our citizens."

Collection and Analysis of Employment Statistics

The federal government is responsible for collecting comprehensive employment statistics on an ongoing basis through Statistics Canada. The provincial government supplements this information, but a larger part of its resources is devoted to analysis of employment and related statistics.

Labour market research is carried out by the Ministries of Labour, Colleges and Universities, and Treasury and Economics.

To further meet the need for labour market information, including employment statistics, the Cabinet announced in October 1977 the creation of a Labour Market Information and Analysis Unit within the Ministry of Labour.

The goals of this unit were spelled out in the Speech from the Throne on February 12, 1978 as follows: "The labour market information program begun last fall will assist the private sector in matching jobs with people to achieve higher employment, by identifying and analysing the critical supply and demand requirements of the provincial labour market."

Employment Adjustment

The Employment Adjustment Service of the Ontario Ministry of Labour is a special on-going program to assist labour, management and government in the area of manpower adjustment problems. The service, established in May 1973, performs a liaison/consulting role between parties faced with potential employment disruption and the public and private sector institutions which assist the employers and employees involved. The principal mechanism employed is the establishment of a committee consisting of employee and management representatives, chaired by an independent person, to assist employees affected by large scale terminations to establish themselves in new employment. The Canada Manpower Consultative Service represents the federal government on each committee and performs functions parallel to those of the Employment Adjustment Service.

Technical and Vocational Guidance and Training Programs

The Colleges of Applied Arts and Technology, established in 1965, provide post-secondary training in fields of vocational, technological, general and recreational education. The community college is a composite, comprehensive institution providing a variety of day and evening courses on a full and part-time basis. There are 22 community colleges with a total of more than 90 campuses serving all the major economic regions in Ontario. Together, the community colleges offer nearly 2,000 programs.

The colleges provide post-secondary, job-oriented programs for high-school graduates and/or out-of-school youth who may not have completed secondary school, as well as educational and occupational training programs for adults.

The Ontario Ministries of Agriculture, Health, Intergovernmental Affairs, and Labour are all involved in specialized training for specialization in agriculture, health, municipal government, industrial relations and occupational health and safety. The programs vary from field to field and year to year depending upon manpower needs. The nature of government involvement similarly varies from funding to co-ordination and, in the case of agriculture, to complete responsibility.

Industrial Training Programs: The Ontario Ministry of Colleges and Universities administers training and retraining for men and women for employment in industry through several programs, apprenticeship (including on-the-job training) full-and part-time training of adults already in the labour force, short term training-in-industry programs and trade certification.

Counselling: The Province of Ontario provides a computer-based information service designed to support a school's educational and career counselling programs. The objective of the Student Guidance Information System is to provide a learning environment to assist students to decide upon educational and occupational goals. The Women's Bureau of the Ministry of Labour produces a Career Selector series of publications, documenting requirements for over 100 careers.

Guideline II, C: Statistical and other available information on the level of employment and extent of unemployment.

Such information is provided in Appendix 1 to this report.

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

Guideline III: A. Remuneration

The Employment Standards Act, 1974[1]

This Act ensures that every employee who performs work in respect of which a legal minimum wage is established, is entitled to receive at least the minimum wage prescribed under the Act. Provision exists for handicapped workers to be employed at a wage lower than the legal minimum, if approved by the Ontario Ministry of Labour[2]. In 1978, approximately 3.1 million of 3.8 million total workers were covered by the minimum wage provisions of The Employment Standards Act, 1974.

As of January 1, 1979, the minimum wage has been raised from $2.85 to $3.00 per hour. A lower minimum wage rate of $2.50 per hour applies to persons employed to serve liquor in licenced premises because their income is supplemented by tips. The minimum rate for students under 18 years of age who work 28 hours per week during school holidays is $2.00 per hour.

The equal pay provision of The Employment Standards Act, 1974[3] states that:

> "No employer or person acting on behalf of an employer shall discriminate between a male and female employee by paying a female employee at a rate less than the rate of pay paid to a male employee, or vice versa, for substantially the same work performed in the same establishment, the performance of which requires substantially the same skill, effort and responsibility, and which is performed under similar working conditions, except where such payment is made pursuant to:
>
> (a) a seniority system;
>
> (b) a merit system;
>
> (c) a system that measures earnings by quantity or quality of production; or
>
> (d) a differential based on any factor other than sex."

The equal benefits section[4] of The Employment Standards Act, 1974 prohibits any differentiation based on age, sex or marital status in pension and life insurance plans and long and short term disability insurance schemes including health and dental plans. Certain differences based on actuarial computations are permitted in some types of plans. Regulations define discrimination clearly: e.g. sex-based discrimination includes any distinction related to whether an employee is or is not a head of household or principal or primary wage earner.

The Government Contracts Hours and Wages Act[5]

The Fair Wage Schedule on Government Contracts made under this Act is intended to prevent competitive bidding for contracts on the basis of substandard wages, and to ensure that all workers on government construction contracts are paid fair wages. Fair wages are defined in the Act as those generally accepted as current for various classes of competent workers in the district in which the work is being performed.

The Industrial Standards Act[6]

This Act provides that employees and employers may jointly request a schedule of wages and working conditions for their particular industry. When the schedule has been prepared and accepted by both groups and has been approved by the Ontario Ministry of Labour, the schedule becomes the minimum standard for that industry or trade in a designated zone. The Act specifies (under Section 22) that where a schedule prescribes rates of wages, vacations with pay or hours of work that are different from those prescribed by or under any other Act (e.g. The Employment Standards Act, 1974), the greater rate of wages and vacations with pay and the lesser hours of work shall prevail as of December 31, 1978.

The following schedules are active: Fur; Men's and Boys' Clothing; Ladies' Cloak and Suit; and Ladies' Dress and Sportwear. These four schedules cover over 400 firms and over 8,000 employees.

PRINCIPAL METHODS FOR DETERMINING MINIMUM WAGES

The minimum wage is determined by Order-In-Council pursuant to The Employment Standards Act, 1974. In establishing the level, the adequacy of existing and proposed minimum wage levels are studied in relation to such factors as (a) increases in the consumer price index, (b) level of average hourly earnings in industry generally, (c) level of general welfare benefits, (d) minimum wages in other relevant jurisdictions, and (e) probable economic impact of the proposed minimum.

It is estimated that about 250,000 workers, or 6.7 per cent of the employed paid workers in Ontario, earn within 10 per cent of the minimum wage.

Part V of The Employment Standards Act, 1974, dealing with minimum wage, does not apply to certain categories of employees, e.g., domestic servants employed directly by a household; qualified practitioners of architecture, dentistry, law, medicine, engineering, accounting, etc.; students training for the professions; teachers; persons engaged in commercial fishing; real estate salespersons; employees of the Federal Government, those in federally-regulated industries; agricultural workers except those involved in harvesting of fruits, vegetables and tobacco; etc.[7] The minimum wage legislation covers approximately 80 to 85 per cent of the employed labour force in Ontario.

The Ontario Ministry of Labour is responsible for setting the minimum wage rates under the Fair Wage Schedules on all Government contracts. If there is a significant degree of trade union organization in a specified area, then the prevailing collective agreement rates are used in the fair wage schedules.

The Industrial Standards Act was intended to permit a schedule of working conditions, agreed to by a majority of employers and employees in an industry, to be extended to cover the whole industry in a specified area. Under the provisions of the Act, the Minister of Labour can convene a conference of employees and employers in an industry to arrive at standard rates of wages and hours of work for an industry in a specific zone or zones.

COLLECTIVE BARGAINING AGREEMENTS

The wages of approximately 1,257,000 Ontario workers are governed by collective agreement provisions. These workers comprise 34 per cent of the total paid employees in Ontario, and are mostly manual workers.

About 25 per cent of these workers are presently covered by agreements which contain cost of living adjustment clauses. Such clauses generally provide for automatic adjustment of basic wage, most commonly every month, in accordance with movements in the consumer price index.

Virtually all collective agreements provide for extra compensation in pay or time off for overtime work after the regular daily or weekly hours. The predominant premium is time and one-half.

Most agreements provide for premium pay for work on Saturday and Sunday or on the sixth and seventh day for employees on continuous operations. The most common premium for Saturday and the sixth day is time and one-half and for Sunday and the seventh day is double time. In a few agreements employees on continuous operations are paid a premium on their regular shift on Saturday and Sunday.

REMUNERATION OTHER THAN REGULAR WAGES

Premiums for second and third shift work are provided in about 84 per cent of Ontario agreements.

About 84 per cent of Ontario agreements also guarantee employees a minimum amount of pay or hours of work if they are called back to work from home after completing their regular schedule. The most common guarantee is 4 hours at the rate of time and one-half.

About 50 per cent of Ontario agreements, particularly those including men and women in the bargaining unit, contain a specific provision requiring equal pay for equal work. More often agreements include a general provision that the terms of the agreement will be applied equally to all employees.

Guideline: III, B: Safe and healthy working conditions

1. PRINCIPAL LEGISLATION

The Occupational Health and Safety Act, 1978[8]

This Act brings under a single piece of legislation those workers previously covered by separate existing Acts (e.g., The Construction Safety Act, The Industrial Safety Act, The Mining Act, and The Employees' Health and Safety Act[9]).

In addition, the new Act coverage has been extended to all workers not previously included under occupational health and safety legislation except for domestics and for farmers and teachers as prescribed in specific instances. Under the Act, joint health and safety committees or representatives have been made mandatory for most workers; the duties of an employer and worker (among others) are set out; the use of and exposure to toxic substances have been regulated and the right to refuse work because of unsafe working conditions has been confirmed with the exceptions of policemen, firemen, correctional institutions, and specific workers in circumstances where the life, health, or safety of another person may be in imminent danger.

Administrative requirements provide for the enforcement of existing safety legislation. Specific duties are spelled out for parties involved in construction activity,[10] for the industrial sector,[11] and for mining.[12]

COLLECTIVE BARGAINING AGREEMENTS

Most agreements include provisions relating to employee health and safety, usually as a general statement of company policy to provide, or make reasonable efforts to provide, safe and healthful working conditions.

Many agreements, include in addition specific programs providing safety training, safety information, safety suggestions, safety inspections, and safety committees. A recent development in the steel industry is the provision in a collective agreement for a university conducted research program into the plant environment and health hazards on the job.

2. PRINCIPAL ARRANGEMENTS AND PROCEDURES

Provincial Government Level: The role of enforcement of these regulations is vested in the Occupational Health and Safety Division of the Provincial Ministry of Labour. Regular inspection cycles are followed to ensure that the Provinces's workplaces are adequately covered. There are procedures set out for pre-construction review, inspection, consultation and prosecution.

Industry Level: Counselling and safety education are handled by nine safety associations funded by an industry levy under The Workmen's Compensation Act. The three largest are The Industrial Accident Prevention Assocation, The Construction Safety Association and The Mining Accident Preventions Association.

Local Level:[13] Various Labour-Management Educational Committees function to promote safe and healthy working conditions at the local level. The line branches of the provincial government regularly interface with them for co-ordination. Local trades councils are also similarly involved.

Plant Level: The new Occupational Health and Safety Act, 1978 stresses the internal responsibility system of each establishment as pre-eminent in accident prevention and health protection. It provides for mandatory health and safety committees in establishments with 20 or more employees and for health and safety representatives on construction projects with over 20 workers.

4. THE NUMBER, NATURE AND FREQUENCY OF OCCUPATIONAL ACCIDENTS AND CASES OF OCCUPATIONAL DISEASES

In 1976, there were 154,910 lost-time injury/disease claims in respect of which the Workmen's Compensation Board of Ontario made first time payments. A lost-time injury is one that disables the employee beyond the day of accident from earning full wages at the work at which he was employed.

During the period of 1974 to 1976, the total work injuries recorded by the Workmen's Compensation Board were as follows: 140,814 in 1974, 128,415 in 1975 and 137,567 in 1976. The injury frequency rates (i.e. the number of work injuries per million man-hours worked) were as follows: 29 in 1974; 25.7 in 1975, and 29.2 in 1976.

Guideline III, C: Equal opportunity for promotion

1. PRINCIPAL LEGISLATION

The Ontario Human Rights Code[14]

The Code prohibits discrimination because of sex or marital status in recruitment and hiring, training and apprenticeship, promotion and transfer, dismissal, terms and conditions of employment and membership in trade unions or self-governing professions. Classifying a job as "male" or "female" or maintaining separate seniority lists based on sex or marital status is in violation of the Code.

Advertisers may not place and newspapers may not print advertisements indicating, directly or indirectly, that sex or marital status is a job qualification. Help-wanted columns segregated according to sex are prohibited. Similarly, employers may not place and employment agencies may not receive job orders restricted to one sex.

As well as prohibiting job discrimination on the basis of sex and marital status, the Code also bans discrimination against minority groups and older workers. Discrimination against any person with regard to employment, terms or conditions of employment, or membership in trade unions because of race, creed, colour, nationality, ancestry, place of origin, sex or age is prohibited. Age is defined as from 40 to 65 years. Employers or employment agencies may not use signs, advertisements or application forms or make inquiries which might be discriminatory on any of these grounds. Self-governing professions are prohibited from restricting membership on any of the above grounds, with the exception of nationality.

The Public Service Act[15]

In the public sector, the Ontario Civil Service Commission determines, guides and provides appropriate training and development programs to ensure continuing improvement in the efficiency of individual public servants. A civil servant may be granted an educational leave with up to full pay for a period of twelve months.[16]

COLLECTIVE BARGAINING AGREEMENTS

In the unionized sector, most of the collective agreements negotiated between companies and unions provide for promotion rules. Some examples are:

(a) employees shall have the right to advance to higher paying jobs in order of their seniority;

(b) in cases of promotions, seniority shall prevail provided the employee has the knowledge, skill, efficiency and physical fitness to perform the work; and

(c) promotions to higher paid positions will be based primarily on the skill, ability, experience and qualifications of the employees concerned, but as between two persons of approximately equal standing based upon the above factors, seniority will govern.

Many employers also provide for training in learning a job at the work site during working hours in order to prepare present employees for advancement to higher grades. Also, some employers provide for leave of absence for educational purposes.

2. PROCEDURES

Affirmative Action: Public Education

The Women's Bureau of the Ontario Ministry of Labour was established in 1963. Since that time, programs have been developed to help staff respond to the needs of women in the labour force. The Bureau's prime focus is on public education. There are three program areas - Community Outreach, Affirmative Action, and Information and Communications. Each is concerned with the elimination of traditional stereotypes of women in the labour force.

The Affirmative Action progam is most closely concerned with equal opportunity for promotion.

Affirmative Action is the term used for any plan which promotes full equality between groups of people in their access to educational and job opportunities. It works to correct the present consequences of past discrimination.

Affirmative Action implies wider employment options for women at every level and is not concerned solely with moving women into management.

The Bureau's Affirmative Action Consulting Service is a resource for employers and unions concerned about encouraging equal employment opportunities for women. Employers are encouraged to establish formal Affirmative Action programs, while unions, trade and professional associations are encouraged to support such programs.

Consultants are available to these organizations to provide assistance and advice relating to a wide range of employment policies and practices as they affect the careers of women employees.

Information about Affirmative Action has been provided to 315 employers. These contacts represent more than one-third of Ontario's major employers. Consultants have met with 185 of these organizations, thus affecting approximately 892,000 employees of whom about 410,000 are women. Many of these employers continue in a client relationship with the Bureau.

Affirmative Action: The Ontario Public Service

Since April 1974, the Ontario Government has had an Affirmative Action program for its employees. The purpose is to raise the status and diversify the occupational distribution of women working in the Ontario Government. This program is facilitated and monitored by the Women Crown Employees Office which is located in the Ministry of Labour. The program operates under guidelines approved by Management Board of Cabinet.[17] An annual report on the operation of the program is presented to the legislature.

Guideline III, D: Rest, leisure, limitation of working hours, and holidays with pay

PRINCIPAL LEGISLATION

The Employment Standards Act, 1974

Under The Employment Standards Act, 1974, the maximum hours of work of any employee are eight per day and forty-eight per week. The Act requires that, except in specified emergency situations, employers must receive permission of the Employment Standards Branch, Ontario Ministry of Labour, before scheduling hours of work beyond the established limits. At the same time, the law gives employees the right to refuse work beyond the eight and forty-eight hour maxima even where employers are granted permits to schedule extra hours. The legislation also requires every employer to provide eating periods of at least one-half hour at such intervals as will result in no employee working longer than five consecutive hours without an eating period.[18]

Standard hours of work in the public sector are 36 1/4 hours per week, and may vary up to 40 hours depending upon the requirements of the position.[19]

Data on standard hours in Ontario reveal that about 96 per cent of the employees working in large establishments (with 20 employees or more) work for 8 or fewer hours per day. The standard hours for about 92 per cent of the total employees are 40 or fewer hours per week. A survey of Wages, Hours of Work, and Overtime Pay Provisions in selected low standards industries, carried out in 1975 by the Research Branch, Ontario Ministry of Labour, showed that about 88 per cent of the total employees covered had standard weekly hours of 40 or less in May 1975.

In Ontario, the general premium pay provision under The Employment Standards Act, 1974, requires that a premium rate of at least one and one-half times the regular rate of an employee must be paid for each hour worked in excess of forty-four per week.[20]

Under The Employment Standards Act, 1974, an employer is generally required to give an employee at least two weeks of paid vacation for each twelve months of employment. The amount of vacation pay must be at least 4 per cent of the employee's gross wages for the previous twelve months.[21]

Employees are generally entitled to a minimum of seven public holidays with pay: New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day.

If an employee works on a public holiday, the employee must be paid at least one and one-half times the regular rate for those hours worked, in addition to the employee's regular day's pay for that public holiday.[22]

COLLECTIVE BARGAINING

A 1976 review of 844 collective agreements (95 per cent of the total agreements covering bargaining units of 200 or more employees) indicated that an employee working beyond regular daily hours would be paid a premium rate for the time worked or given compensating time off. The most common premium rate was one and one-half times the regular rate. About 88 per cent of the collective agreements had this provision, and about 80 per cent of the employees covered had a standard work day of 8 hours or less.

About 49 per cent of the agreements provided compensation for overtime worked after regular weekly hours. Most of these agreements (over 90 per cent) had an initial provision of one and one-half times the regular hourly rate. Over 80 per cent of the employees covered had standard hours of work of 40 or less per week.

PROCEDURES

The Employment Standards Act, 1974[23] provides that, where an employee in a hotel, motel, tourist resort, restaurant, tavern, continuous operation, or a hospital is required to work on a public holiday, the employer may pay the employee regular wages for work done on the public holiday and give the employee a day off with pay on the first working day following the employee's annual vacation or any other agreed working day; or the employer shall pay the employee, for each hour worked, a premium of no less than one and one-half the employee's regular rate, in addition to the employee's regular wages for the public holiday.

The Employment Standards Act, 1974[24] permits, upon approval of the Employment Standards Branch and employees of an establishment, introduction of innovative working time arrangements (e.g. compressed work schedules), which provide workers with larger blocks of leisure time. These arrangements are particularly favoured by employees in continuous operations who previously had very irregular work schedules.

Ontario Regulations 756, 757 and 759 made under The Public Service Act provide special rules for members of the Ontario Provincial Police Force in regard to overtime, stand-by and vacations.

ARTICLE 8: TRADE UNION RIGHTS

Guideline IV, A: Principal legislation

The Labour Relations Act[1]

This Act strengthens the common law right of freedom of association which all persons have, subject to specific legal restrictions on that right. It declares that all persons are free to join a trade union of their own choice and to participate in its lawful activities, without interference or loss of their job.[2] Certain persons are not entitled to the special protections of that right contained in this Act.[3] They may have protection however, provided in other labour legislation specific to them (see below). The definition of a trade union is very broad.[4] Persons who are denied or lose membership in a trade union because they belong to or act on behalf of another trade union are protected from dismissal in spite of their failure to comply with union security clauses in collective agreements.[5] There are no restrictions on the right of a trade union to make it a condition of membership that persons belong to no other trade union.

Guideline IV, B: The right to form and join a trade union

There are no restrictions on the right of employees to form trade unions. The Rights of Labour Act[6] protects unions from being declared illegal as organizations acting in restraint of trade. The ability of those unions to obtain legally enforceable collective bargaining rights is subject to the provisions of the applicable labour relations legislation and the common law. Employers and persons acting on behalf of employers are prohibited from participating or interfering with the formation, selection or administration of a trade union or the representation of employees by a trade union or contributing financial or other support to a trade union.[7]

Guideline IV, C: Right of trade unions to federate

There are no provisions limiting the right of trade unions to federate. The Labour Relations Board has power to declare that a trade union has obtained the bargaining rights previously held by another union by reason of merger, amalgamation or transfer of jurisdiction.[8]

Guideline IV, D: Right of trade unions to function freely

Trade unions that discriminate on named grounds will not be certified as bargaining agents by the Labour Relations Board, and collective agreements that discriminate are invalid.[9] Trade unions have a duty to represent fairly the employees in their bargaining units, and to exercise fairly any powers they have to select, refer, assign, designate or schedule persons to employment.[10] Trade unions have a duty to furnish their members with adequate financial statements of their affairs.[11] Trade unions are forbidden to use intimidation or coercion to compel persons to become or not become or to continue to or cease to be members of a trade union or to refrain from exercising any other rights or performing any obligations under The Labour Relations Act.[12] The Act does not authorize attempts to persuade a person during working hours at their workplace with regards to union membership, although a collective agreement may do so in effect.[13] Trade unions are prohibited from interfering with employers' organizations.[14]

The policy throughout the Act is to create stable bargaining rights exercised by one trade union as the exclusive bargaining agent for all of the employees in a bargaining unit. Bargaining rights are obtained through voluntary recognition by the employer or certification by the Labour Relations Board based upon majority support for the trade union, generally. Other trade unions are free to displace existing bargaining agents generally only at certain times and through a new certificate.[15]

There are rules in the Act governing the dissolution of certified councils of trade unions,[16] and the exercise of trusteeship powers over subordinate trade unions.[17] Administrators of funds held for the benefit of union members have to report annually to the Minister of Labour.[18] The Labour Relations Board can require a trade union to file its constitution and by-laws and the names of its officers.[19]

Guideline IV, E: Right to strike

Strikes are legal only in a period where there is no collective agreement in operation, and only after the parties have gone through the bargaining, conciliation and mediation processes set out in the Act and the Minister of Labour has issued a notice or report.[20] Hence, a strike of employees aimed at obtaining bargaining rights for themselves is not legal.[21] Strike and ratification votes, if held, must be done in a certain manner.[22] During a strike, the Minister of Labour has power to direct a vote of the employees on the employer's last offer.[23] The definition of a strike in the Act is very broad and does not consider the purpose behind the collective action of the employees to be relevant.[24] There are broad prohibitions on actions relating to unlawful strikes, and the Labour Relations Board has power to issue cease-and-desist orders in case of an unlawful strike.[25] There may be claim for damages against a trade union that calls or authorizes an unlawful strike even where there is no collective agreement through arbitration.[26] Employees engaging in lawful strikes have a limited statutory right to reinstatement.[27]

The Human Rights Code[28]

Trade unions are prohibited from making decisions about membership or discriminating in any way based on race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin.[29]

Guideline IV, F & G: Restrictions

The Hospital Labour Disputes Administration Act[30]

Hospital employees are governed by The Labour Relations Act as altered by The Hospital Labour Disputes Administration Act. These employees have no right to strike. If the parties fail to agree on the terms and conditions of employment, all matters in dispute are referred to arbitration for a decision after conciliation.[31]

The School Boards and Teachers Collective Negotiations Act, 1975[32]

This legislation establishes the pre-existing associations of teachers as the bargaining agents for their teacher members employed by public boards of education. There is no provision for other trade unions to obtain bargaining rights for teachers.[33]

Teachers, excepting principals and vice-principals, can only strike legally once there is no agreement in operation, the parties have negotiated, the mandatory fact finding process is complete, and the teachers have voted in a secret ballot, in a manner determined by a government-appointed Education Relations Commission, to reject the employer's last offer and to strike. Notice of the strike must also be given. The definition of a strike includes the collective giving of notice to terminate contracts of employment. Further provisions affect votes on proposed contracts.[34]

The bargaining agent gives up the right to strike if it agrees with the employer to refer all matters remaining in dispute to voluntary binding arbitration or a selector for decision.[35]

The Colleges Collective Bargaining Act, 1975[36]

Employees of colleges of applied arts and technology who fall within one of the two province-wide bargaining units mandated by the legislation[37] can only strike legally once their bargaining agent has satisfied conditions similar to those set out in the above legislation.[38]

Those employees are free to join employee organizations of their own choice but the existing employee organizations that were parties to the agreements with regard to those bargaining units when the Act came into force are given bargaining rights.[39] The definition of employee organization may limit the range of trade unions which could obtain bargaining rights on behalf of these employees.[40] Other provisions respecting the trade union rights of the trade union and employees are similar to those in The Labour Relations Act.

The Fire Departments Act[41]

Full-time firefighters can bargain with their employer through a bargaining committee of themselves where a majority requests. Where a majority are members of a trade union, they can have up to two non-firefighter members of that union's provincial or international body attend bargaining meetings in an advisory capacity only. Either party can require that all matters remaining in dispute be referred to arbitration for decision.[42] There is no express right to strike, nor is there an express prohibition on strikes. Thus, the situation is governed by the common law and, if tested, would be decided by reference to the courts.

The Police Act[43]

Members of police forces cannot belong to trade unions or affiliated organizations.[44] They can bargain collectively through a bargaining committee where a majority wish to do so, and they can belong to an association where a majority wish to do so, and they can belong to an association of members of the police force that is limited to one police force. Those associations can be affiliated to police organizations. There are limitations on the composition of bargaining committees.[45] Senior officers bargain separately through their own association where a majority wish to do so.[46] Members of police forces cannot strike legally and either party can require all matters in dispute to be referred to an arbitrator for decision.[47]

The Public Service Act[48]

Members of the Ontario Provincial Police Force bargain through their Association, which can only include members of the force, has to represent a majority of the members of the Force and cannot be affiliated with a trade union. The Police Act prohibits strikes by the members of the force.

The forum and manner of bargaining is set out in detail, culminating in arbitration if the negotiating committee composed of staff and employer representatives fails to achieve agreement. The Board of Directors of the Association is given the power[49] to approve or reject a negotiating committee decision.[50]

The Crown Employees Collective Bargaining Act, 1972[51]

Some employees of the provincial government have legally protected rights to bargain collectively under this legislation.[52] At present this extends to approximately 80% of public servants. Existing bargaining rights were affirmed when the legislation was enacted and other employee organizations can seek to obtain bargaining rights by application to the Ontario Public Service Labour Relations Tribunal.[53]

The type of employee organization to which these persons have a right to belong and bargain through is limited to ones which do not support any political party, and do not discriminate.[54] There are protections of the right to belong to the employee organization of a person's choice.[55] Where a bargaining agent merges with or transfers jurisdiction to another employee organization, the latter has to apply to the Ontario Public Service Labour Relations Tribunal to obtain bargaining rights.[56]

Employee organizations have a duty to represent the employees fairly. There are provisions governing trusteeships over employee organizations and requiring the filing and publishing of certain information about employee organizations with bargaining rights under the Act annually.[57]

There is no right to strike and all bargaining disputes are settled by arbitration where the parties cannot reach agreement themselves.[58]

ARTICLE 9: RIGHT TO SOCIAL SECURITY

Guideline V

1. Principal laws, administrative regulations, collective agreements, court decisions and other types of arrangements relating to the social security system including social insurance schemes.

2. Main features of the schemes in force for each of the branches of social security listed below, indicating in particular, for each branch, the percentage of the population covered, the nature and level of benefits, and the method of financing the scheme.

(a) medical care;
(b) cash sickness benefits;
(c) maternity benefits;
(d) invalidity benefits;
(e) old-age benefits;
(f) survivors' benefits;
(g) employment injury benefits;
(h) unemployment benefits;
(i) family benefits.

3. Factors and difficulties affecting the degree of realization of the right to social security; progress achieved, as regards, in particular, the covering of new fields of society security, the extension of existing schemes to further groups of the population and improvements in the nature or level of benefits.

A Right to Medical Care

PRINCIPAL LEGISLATION

The Health Insurance Act[1]

This Act guarantees the right of all residents to become insured persons under the Ontario Health Insurance Plan (the Plan) upon application and payment of a monthly premium. The legislation also details arrangements regarding payment of physicians and other practitioners whose services are covered by the Plan. Insured persons, physicians and other practitioners may appeal from decisions by the Plan as far as the Supreme Court. Virtually all residents are covered.

PROCEDURE

Main Features of the Plan

The Plan covers almost all medical procedures (with a few exceptions such as cosmetic surgery) and associated hospitalization. (Semi-private or private hospital accommodation is often available but the additional costs of this are not covered. Individuals may purchase other insurance privately for this service if they wish.) Laboratory services are also covered.

Services of some non-medical practitioners (optometrists, chiropodists, physiotherapists, chiropractors, etc.) are covered but with some limitations.

Nursing home care is covered although the patient is required to pay a prescribed amount towards the cost of food and board.

Drugs are provided at no charge to those over age 65.

Ambulance services are also provided at a nominal charge to the user.

Dental services are not covered except for a very few procedures, and then only when performed in a hospital.

Financing

The Plan is financed by premiums paid by subscribers and general tax revenues. Premiums cover some 25-35% of the costs and are reviewed periodically. Family coverage (subscriber, spouse and children under age 21) is available for twice the premium payable by an individual.

Persons over age 65 are exempt from premiums. Persons with a low income may be exempted from all or part of the premium.

COLLECTIVE BARGAINING AGREEMENTS

Virtually all agreements contain provisions referring to basic medical care. Major medical benefit plans have been increasing in recent years. In about 75 per cent of these plans the employer pays the full premium.

A Right to Pregnancy Benefits

PRINCIPAL LAWS

The Employment Standards Act, 1974[2]

This Act prohibits dismissal for pregnancy and provides for a flexible 17 weeks unpaid leave of absence for all employees with a minimum of one year and 11 weeks of service with an employer prior to the expected date of delivery. The Act requires that an employee give two weeks' notice of the date she intends to begin her leave.

The employee is entitled to begin her leave of absence at any time within eleven weeks before the expected date of birth. No pregnant employee can be compelled, either by her employer or by a collective agreement, to begin her leave earlier than she intends to do so. However, the employer may initiate the leave earlier if he or she can show that the employee cannot manage her normal work load adequately.

Regardless of when she began her leave, the employee is entitled to a fixed minimum post-natal leave of six weeks after the actual date of the birth. If a woman wishes to return to work less than six weeks after the birth, she must provide her employer with one week's notice of her intention to return and a medical certificate stating that she is fit to resume her duties.

The Act ensures the pregnant employee's right to return to the same or comparable job without loss of seniority or drop in salary. Pregnancy leaves of longer than 17 weeks may be arranged by mutual agreement with the employer, or negotiated through collective agreements but, in such cases, the type of job to which the employee will return is beyond the jurisdiction of the legislation and is also open to negotiation. Women taking pregnancy leave may be eligible for Unemployment Insurance benefits, a provision of the federal government.

COLLECTIVE BARGAINING AGREEMENTS

Unpaid pregnancy leave is common but financial benefits are rarely provided in collective agreements, and, where included, are usually covered in cash sickness benefit plans.

A Right to Invalidity Benefits

PRINCIPAL LEGISLATION

The Guaranteed Annual Income System for the Disabled or GAINS(D) provides an income-tested benefit to needy disabled persons under The Family Benefits Act[3].

PROGRAM INFORMATION

There are approximately 37,000 cases (and 45,000 beneficiaries in total) who receive GAINS(D). GAINS(D) is paid to people who have major and prolonged physical impairments which severely limit normal daily activity. As an income-tested benefit, the assets and resources of the recipient are taken into account so that a guaranteed minimum income is provided. In the case of a single person, the guarantee is $270 per month. For a couple where the man is disabled, the guarantee is $430 per month and where both spouses are disabled, the amount is $540 per month. Where there are other dependents, higher amounts are paid.

Drug and dental needs as well as medical insurance are also provided free to GAINS(D) recipients. Where a recipient has special or extraordinary needs, there is provision for extra allowances to be paid (e.g. special diets, etc.). The cost of GAINS(D) program is shared on a 50-50 basis by the Ontario and the federal governments.

The GAINS(D) program is a relatively new program (July 1974), the first to provide a guaranteed income in Ontario.

There are also approximately 20,000 individuals suffering temporary ill-health in receipt of general assistance under The General Welfare Assistance Act.[4] Benefit levels and needs testing are the same as for employable persons.

A Right to Old Age Benefits

PRINCIPAL LEGISLATION

The Guaranteed Annual Income System for the Aged GAINS(A) provides an income-tested benefit to needy aged persons as a supplement to Federal Old Age Security and the Guaranteed Income Supplement. It is paid under The Ontario Guaranteed Annual Income Act, 1974.[5]

PROGRAM INFORMATION

There are approximately 243,000 aged persons receiving this benefit, 107,000 of whom receive the full value of the supplement.

A recipient must be 65 years of age or older and must receive Old Age Security (OAS) to qualify for benefits.

Only the current income of a recipient is taken into account in determining benefits. Assets are not considered.

The GAINS(A) supplement and guaranteed levels are as follows:

	Single Person	Couple
Supplement	$ 38.88	$103.64
Guaranteed	$319.47	$638.34

Free medical insurance and a drug card for free prescription drugs are also provided to seniors.

Where an aged person has additional needs, Supplementary Aid under The General Welfare Assistance Act[6] may be issued.

GAINS(A) is fully funded by the Government of Ontario. For persons over 65 years of age who do not qualify for OAS and GAINS(A), lower benefits are provided on a needs-tested basis to some 3,000 respondents under a provision of The Family Benefits Act.[7]

COLLECTIVE BARGAINING AGREEMENTS

Pension plans are included in about one-third of Ontario agreements. The majority of these plans are fully paid for by the employer.

Right to Survivors' Benefits

PRINCIPAL LEGISLATION

Income and needs-tested benefits are provided on a long term basis to needy widows with children and 60-64 year old widows under The Family Benefits Act.[8]

PROGRAM INFORMATION

There are approximately 4,500 cases and approximately 10,000 to 12,000 beneficiaries on this program. The Family Benefits Assistance (F.B.A.) benefit paid to these groups is determined on the basis of need. Eligibility is granted if assets and resources are below a prescribed level; there is no work requirement. Free medical insurance and other special needs items are also provided to F.B.A. recipients.

The cost of the program is shared 50-50 between the federal and Ontario governments. Sample monthly benefit levels are as follows:

Single person	: $206
Mother + 1 child	: $351
Mother + 2 children	: $407

COLLECTIVE BARGAINING AGREEMENTS

Life insurance benefits are provided in more than nine-tenths of Ontario agreements. The employer pays the full premiums in more than half the plans. The amount of benefits provided in most of the plans is one and a half times the employee's earnings.

Most pension plans provide benefits for life to dependents of employees who die prior to retirement.

Employment Injury Benefits

PRINCIPAL LEGISLATION

The Workmen's Compensation Act[9]

The Act extends to the employee protection for all accidents arising out of and in the course of the employment; it places the adjudication of claims in the hands of the Workmen's Compensation Board; and in most of the industries to which it applies it makes the employer's liability collective instead of individual.

This law does not apply to all industries, but applies to the industries listed in Schedule 1 and Schedule 2 of the Regulations. Between 90 and 95 percent of the employed labour force is thus included under workmen's compensation.

In the very large list of industries under Schedule 1 under the collective liability system, the Board collects assessments from the employers, forming an accident fund out of which compensation and medical aid are paid. In the much smaller list of industries under Schedule 2 each employer is individually liable, at the direction of the Board, to pay for compensation and medical aid to his employees for accidents as they occur.

Schedule 1 includes the businesses of manufacturing of all kinds; natural resource industries; construction; retail mercantile businesses; farm operations; and some others.

In Schedule 2 are municipalities, and the Crown in right of the Province, and other very large organizations the size and nature of which precludes the need for collective liability.

Other industries or employments may be added by the Board on the application of the employer.

An employer, partner or an executive officer of a limited company is not protected unless he notifies the Board that he desires to be covered.

PROCEDURES

Compensation is payable where there is personal injury by accident arising out of and in the course of employment and in the case of industrial diseases as defined by the Act and as included in Schedule 3.

The only exceptions are:

(1) Where the injury does not disable the employee beyond the date of accident from earning full wages at the work at which he or she was employed;

(2) Where the accident is attributable solely to the serious and wilful misconduct of the employee and does not result in death or serious disablement.

The question of negligence or absence of negligence of employer or employee does not affect the payment of compensation.

No agreement to forego the benefits of the Act is valid. No contribution towards the benefits provided is collectable from the employees.

When any payment or advance is received by the employee from his employer during the period of disability, the amount is deducted from the compensation, and may be refunded to the employer.

All questions as to right to compensation and the amount of it are determined by the Board.

The compensation cannot be assigned, charged or attached, except with the approval of the Board.

The benefits provided are in lieu of a right of action for damages at law and such actions cannot be prosecuted for matters covered by the Act.

In industries not covered by the Act, actions for negligence may still be brought in the courts, except for domestic servants.

Compensation In Fatal Cases

Where the accident results in death:

1. A lump sum of $800.00 in addition to any other benefits is payable to the widow or widower.
2. Burial expenses not exceeding $800.00 plus consideration of transportation where it is necessary to transport the body a considerable distance for burial.
3. A pension of $365.00 per month is payable to the widow or widower. In the event of remarriage, he or she would receive a lump sum settlement equal to two years pension payments.
4. Each child is entitled to a pension of $99.00 per month to age 16 with a provision that it can be continued for educational purposes, or if the child is an invalid.
5. Where the sole dependants are children or where the widow or widower dies, the pension shall be $113.00 for each child.
6. Where there is no dependent widow or widower or child, but there are other dependants, any award would be proportionate to the pecuniary loss but in no case shall it exceed $365.00 per month.
7. Where orphan children are raised by a suitable foster parent, the foster parent may receive the same payments as if he or she were a widow or a widower, so long as any of the dependent children have entitlement.

Compensation In Non-Fatal Cases:

Temporary Total Disability

An employee totally disabled is entilted to receive three-quarters (75%) of the average weekly earnings up to a weekly maximum payment of $233.66. The amount of compensation to which an injured employee is entitled shall not be less than:

For temporary total disability,

(i) Where his or her average earnings are not less than $115.00 a week, $115.00 a week, and

(ii) Where his or her average earnings are less than $115.00 a week, the amount of such earnings.

Temporary Partial Disability

Full compensation benefits may be paid to the temporarily partially disabled employees who are unable to obtain suitable employment, so long as they are available for and co-operate in medical or vocational rehabilitation programs, and are available for and are prepared to accept work suited to their capabilities.

Where the employee returns to employment 75% of the loss in earnings will be paid.

Permanent Disability

After maximum recovery, any permanent disability resulting from the accident is assessed. The award for permanent disability is in the form of a monthly pension except where the impairment is not more than 10 per cent, in which case payment may be made in a lump sum.

Permanent Disability pensions are based on the degree of disability and the employee's earnings prior to the accident. The maximum pension for total permanent disability is $1,012.50 per month and the mimimum is $509.00 per month, or not less than the pensions payable to the dependants in a fatal case.

Death benefits are payable to dependants of a permanently totally disabled employee where death occurs from any cause.

Medical Care

When the employee's claim is allowed under the Act no matter what the length of disability, the employee is entitled to medical, surgical and dental aid, the aid of drugless practitioners and chiropodists registered in Ontario. Hospital and skilled nursing services are paid for and at the discretion of the Board where an employee is rendered helpless through permanent total disability such other treatment, services or attendance necessary as a result of the injury. He or she is also entitled to be supplied with artificial members, apparatus, dental appliances and apparatus rendered necessary as a result of the accident, and to have it kept in repair or replaced when deemed necessary by the Board. Artificial members or apparatus damaged as a result of an accident arising out of and in the course of employment are repaired or replaced. All this is included under the term "Medical Aid".

In Schedule 1 "industries" this is paid out of the accident fund by the Board, while in Schedule 2 "industries" it is paid for by the employer, at the direction of the Board. Any questions or disputes are to be determined by the Board.

Where an employee's claim is allowed under the Act, it is unlawful for any employer to collect or retain any contribution toward medical aid; nor is a doctor entitled to collect from the employee for services under the Act. The fees paid are regulated by a schedule approved by the Board after consultation with the professions involved.

First Aid and Ambulance

Where the number of employees warrants it, employers are required by regulation under the authority of the Act to provide at their factory, plant or place of employment, suitable first aid or emergency equipment as prescribed.

Employers are also to furnish to injured employees in need of it immediately following an accident, ambulance or transportation to doctor, hospital, or home.

Rehabilitation

The Act provides that the Board may take such measures and make such expenditures as are deemed or expedient to rehabilitate injured employees. For this purpose the Board has established a Vocational Rehabilitation Branch to aid injured employees, particularly those who are seriously disabled, to overcome obstacles to reemployment.

Accident Fund

The accident fund, out of which compensation and medical aid are paid in Schedule 1 "industries", is collected by annual assessments. The rate of assessment is expressed as so many dollars or cents for each $100 of assessable payroll.

Every employer carrying on an industry in Schedule 1 is required to forward to the Board, not later than the last day of February of each year, a statement of the amount of wages paid during the prior year and an estimate of the amount expected to be paid during the current year. Every employer commencing a business operation under the Act during the year must report it to the Board immediately. Careful account of wages must be kept.

The assessment for the year is first made at the beginning of the year upon the actual payroll. The minimum annual assessment is $25.00.

Employers in Schedule 2 who have accidents are assessed for their portion of administration expenses but do not otherwise contribute to the accident fund.

COLLECTIVE BARGAINING AGREEMENTS

Most agreements provide employment injury benefits in the form of regular pay for the time lost on the day of the injury.

A Right to Unemployment Benefits

PRINCIPAL LEGISLATION

When all other resources are exhausted (e.g. unemployment insurance, savings, etc.), income and needs-tested benefits may be provided to unemployed employable persons on a short term basis under the General Assistance provisions of The General Welfare Assistance Act. This benefit is commonly understood by the public as "welfare". It is strictly needs-tested and is meant to be a 'last resort' for persons in emergency need.

PROGRAM INFORMATION

Sample monthly benefit levels are as follows:

Single Person	$191
Couple	$306
Family of four	$429

There are approximately 25,000 unemployed employables on general assistance involving 50,000 beneficiaries in total. Free medical insurance and other special needs items may also be provided to general assistance recipients on a discretionary basis. General assistance recipients comprise somewhat less than 1% of Ontario's population.

The cost of General Assistance benefits are shared by three levels of government:

Federal	50%
Provincial	30%
Municipal	20%

COLLECTIVE BARGAINING AGREEMENTS

Only a few agreements provide benefits to laid-off employees to supplement payments received from the federal government unemployment insurance. These plans are found mainly in the automobile, rubber and steel industries.

A Right to Family Benefits

PRINCIPAL LEGISLATION

There are two programs which provide benefits to families in need: The Family Benefits Program under The Family Benefits Act[10] and The General Welfare Assistance Act.[11]

PROGRAM INFORMATION

Family Benefits

The Family Benefits program (in addition to aspects already mentioned) provides allowances to sole support (i.e. single) mothers with dependent children and dependent fathers with children who are likely to be in need for a long period of time.

There are approximately 44,000 sole support mothers (97,000 beneficiaries) (excluding widows) on the Family Benefits program. Dependent fathers number close to 3,000 cases (6,000 beneficiaries) (excluding disabled).

Family Benefits are paid to needy sole support mothers who choose to remain at home to assume child rearing responsibilities.

Dependent fathers must be disabled or permanently unemployable (for medical reasons) in order to receive Family Benefits.

General Welfare Assistance

General assistance under General Welfare Assistance is provided to any family in need on an emergency or short term basis.

The general assistance caseload (excluding all other groups already mentioned) numbers approximately 15,000 cases (30,000 beneficiaries).

Additional Information in regard to Family Benefits and General Welfare Assistance

Sample monthly Benefits and Assistance rates are as follows:

Parent with:	Family Benefits	General Assistance
One child:	351	321
Two children:	407	374
Three children:	457	420

Medical Insurance and other special needs items such as drugs and dental work may also be paid under both Family Benefits and General Assistance.

The above mentioned groups receiving benefits under Family Benefits and General Assistance comprise approximately 1.6% of Ontario's population.

The funding arrangements for Family Benefits and General Assistance are as follows:

	Family Benefits	General Assistance
Federal	50%	50%
Provincial	50%	30%
Municipal	0%	20%

FOOTNOTES:

ARTICLE 1

1. R.S.O. 1970, c.318 as amended by 1971, c.50, s.63; 1972, c.119; 1974, c.73

ARTICLE 2

1. S.O. 1974, c.112

2. "Life Together", recommendations

3. R.S.O. 1970, c. 318 as amended by 1971, c.50, s.63; 1972, c.119; 1974, c.73

4. R.S.O. 1970, c.351

5. R.S.O. 1970, c.382

6. S.O. 1974, c.63, as amended by 1975, c.75

ARTICLE 3

1. R.S.O. 1970, c.318 as amended by 1971, c.50, s.63; 1972, c.119; 1974, c.73

ARTICLES 4 & 5

1. S.O. 1975, c.42

2. R.S.O. 1970, c.85

ARTICLE 6

1. R.S.O. 1970, c.318, as amended by 1971, c.50, s.63, 1972, c.119, 1974, c.73

2. S.O. 1974, c.112, as amended by 1978, c.2
3. *Ibid*., s.9
4. *Ibid*., s.35 and 36
5. *Ibid*., s.57(1) and (2)
6. *Ibid*., s.13
7. *Ibid*., s.40, ss.(1) - (8)
8. R.S.O. 1970, c.232, as amended by 1975, c.76 and 1977, c.31
9. *Ibid*., s.12
10. *Ibid*., s.40
11. *Ibid*., s.58
12. *Ibid*., ss.38, 69
13. *Ibid*., s.39
14. *Ibid*., ss.60, 60a
15. *Ibid*., s.79
16. S.O. 1972, c.67, as amended by 1974, c.135
17. *Ibid*., s.15
18. *Ibid*., s.28
19. S.O. 1975, c.74, ss.1(f), 54, 77
20. Ontario Regulation 749, R.R.O. 1970, s.31 under *The Public Service Act*, R.S.O. 1970
21. *Ibid*., s.32, made under *The Public Service Act*, R.S.O. *1970*
22. S.O. 1978
23. R.S.O. 1970, c.24, as amended by 1971, c.50, s.7; 1971, c.98, s.4, Sched., par.2; 1972, c.1, s.13 and 1972, c.113

ARTICLE 7

1. S.O. 1974, c.112, as amended by 1978, c.2
2. *Ibid*., s.23, s.34
3. *Ibid*., s.33, ss.(1)-(4)
4. *Ibid*., s.34, ss.(1)-(5)
5. R.S.O. 1970, c.194, s.1 and 2
6. R.S.O. 1970, c.221 as amended by 1971, c.50, s.8,9,(1), 10 and 22
7. Supra, footnote 1
8. Given Third Reading December, 1978
9. S.O. 1976, c.79
10. Ontario Regulation 419 under *The Construction Safety Act*
11. Ontario Regulation 259 (as amended by Ontario Regulation 335) under *The Industrial Safety Act*
12. Part IX and s.621, 625(1)(a),(b),(c),(2) and (3) and 626 of Part XI of *The Mining Act*
13. *Directory of Occupational Health and Safety*, Ontario Ministry of Labour
14. R.S.O. 1970, c.318 as amended by 1971, c.50, s.63; 1972, c.119; 1974, c.73
15. R.S.O. 1970, c.386, as amended
16. Ontario Regulation 749, 1970, under *The Public Service Act*
17. Guidelines on Affirmative Action
18. S.O. 1974, c.112, as amended by 1978, c.2 s. 17-22
19. *The Public Service Act*, R.S.O. 1970, c.386
20. S.O. 1974, c.112, as amended 1978, c.2, s.25
21. S.O. 1974, c.112, as amended 1978, c.2, s.29-32
22. *Ibid*., s.26
23. *Ibid*., s.26, ss.5 (a) and (b)

24. Ibid., s.26, ss.6 (a) and (b)

ARTICLE 8

1. R.S.O. 1970, as amended by 1975, c.76 and 1977, c.31

2. Ibid., ss.3, 58, 61

3. Ibid., s.2

4. Ibid., s.1(1)(n)

5. Ibid., s.38(2)

6. R.S.O. 1970, c.416, s.2

7. The Labour Relations Act, supra., note 1, s.56

8. Ibid., c.54

9. Ibid., s.12, 40

10. Ibid., s.60, 60a

11. Ibib., s.76

12. Ibid., s.61

13. Ibid., s.62

14. Ibid., s.57

15. Ibid., ss.5-8, 50, 52, 53, 59(2), 108, 119, 125-129, 130, 133, 134

16. Ibid., s.47

17. Ibid., s.73

18. Ibid., s.76a

19. Ibid., s.75

20. Ibid., s.63, 36, 13-18, 31, 32, 45, 109, 111

21. The case of United Brotherhood of Carpenters and Joiners of America Employer Bargaining Agency goes beyond that, in effect.

22. Ibid., s.63

23. Ibid., s.34d

24. Ibid., s.1(1)(m), and the case of Douglas Ltd.

25. Ibid., ss.65, 67, 82, 83a, 123

26. Ibid., s.84

27. Ibid., s.64

28. R.S.O. 1970, c.318, as amended by 1971, c.50, s.63; 1972, c.119 and 1974, c.73

29. Ibid., s.4a, 19(a),(1)

30. R.S.O. 1970, c.208, as amended by 1972, c.152

31. Ibid., ss.1, 3, 4, 8

32. S.O. 1975, c.72

33. Ibid., s.I(a), (b), 5

34. Ibid., ss.54, 64-71, I(1), 77

35. Ibid., s.13

36. S.O. 1975, c.74

37. Ibid., ss.I(b)(f), 68

38. Ibid., ss.7, 48, 60-65, 89

39. Ibid., ss.66, 68

40. Ibid., ss.I(g), 67, 69, 70

41. R.S.O. 1970, c.169

42. Ibid., ss.5, 6

43. R.S.O. 1970, c.351, as amended by 1972, c.I, s.97, 1972, c.103 and 1974, c.106

44. Ibid., s.28

45. Ibid., ss.I(aa), 29

46. Ibid., s.30

47. Ibid., ss.32, 69

48. R.S.O. 1970, c.388, as amended by 1972, c.I, ss.2, 107; 1972, c.96 and 1973, c.85

49. Ibid., s.27, 28

50. Supra., footnote 47

51. S.O. 1972, c.67, as amended by 1974, c.135
52. *Ibid*., s.I(I)(g),(m), and see *The Public Service Act*, *Supra*., s.I(e),(g)
53. *The Crown Employees Collective Bargaining Act, 1972*, *Supra*., ss.2, 3
54. *Ibid*., s.I(I)(h)
55. Ibid., ss.27, 30, 49(I)
56. Ibid., s.49b
57. Ibid., ss.44, 45
58. Ibid., ss.25, 29, 33, 31, 9

ARTICLE 9

1. S.O. 1972, c.91, as amended by 1974, c.60 and 86; 1975, c.52 and Ontario regulation 323/72, as amended by Ontario regulation 477/78
2. S.O. 1974, c.112, as amended by 1978, c.2, s.35-39
3. R.S.O. 1970, c.157, as amended by 1971, c.50, s.38; 1971, c.92; 1972, c.151 and 1974, c.98 and Regulation 287 Revised regulations of Ontario, 1970 as amended to August, 1977
4. R.S.O. 1970, c.192, as amended by 1971, c.50 and 1974, c.96
5. S.O. 1974, c.58, as amended by 1976, c.33 and 1977, c.50
6. *Supra*., footnote 4
7. *Supra*., footnote 3
8. *Ibid*.
9. R.S.O. 1970, c.505, as amended
10. *Supra*., footnote 3
11. *Supra*., footnote 4

8. QUÉBEC*

1 Ratification by Québec

Following the ratification of the federal-provincial agreement, concluded between the Ministers responsible for human rights in December 1975, which sets out the ways of implementing the International Covenants within the Canadian federation, Québec by Order in Council ratified the two Covenants and the Optional Protocol to the International Covenant on Civil and Political Rights on April 21, 1976.

2 Québec representative

Following meetings with representatives of the Department of Intergovernmental Affairs, responsible under the Act for the "implementation of agreements and treaties involving Québec", the President of the human rights commission (Commission des droits de la personne) was recognized as Québec's representative for all questions of substance affecting the International Covenants on Human Rights, in coordination with the Department of Justice.

3 The human rights commission (Commission des droits de la personne du Québec)

The human rights commission (Commission des droits de la personne du Québec) was created in 1975 when the Act entitled the Charter of Human Rights and Freedoms was assented to, on June 27 (SQ 1975**, c 6). It has been in operation since June 1976 with its head office in Montréal and an office in Québec city.

The duties of the Commission are to promote, by every appropriate measure, the principles contained in the Charter, and exercise the powers and carry out the duties prescribed (s 66). In particular, it is to:

> s. 67. "(a) receive complaints and make investigations regarding matters within its competence by virtue of section 69;

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* Report prepared by the human rights commission (Commission des droits de la personne du Québec) for the Government of Québec. The report was completed in July 1978. It therefore reflects the situation which prevailed at that time, except in some cases where the information was updated.

** Québec statutes were revised in 1978. The Revised Statutes of Québec, 1978 were published after the preparation of this report.

(b) establish a programme of information and education designed to promote an understanding and acceptance of the objects and provisions of this Charter;

(c) direct and encourage research and publications relating to fundamental rights and freedoms;

(d) make an analysis of any Québec statutes existing prior to this Charter that may be inconsistent with it and make the appropriate recommendations to the Government;

(e) receive the suggestions, recommendations and requests made to it concerning human rights and freedoms, study them and make the appropriate recommendations to the Government; and

(f) cooperate with any Québec or outside organization dedicated for the promotion of human rights and freedoms."

Section 69, for its part, gives any person who has reason to believe that he is or has been the victim of prohibited discrimination or, in the case of an aged person or an infirm, mentally defective or mentally ill person, who believes he is being exploited in any manner, the right to request the Commission to make an investigation. The same right is also given to certain organizations, which may make a request on behalf of another person, with the consent of that person (s 70). It should be noted, finally, that the Commission may also make an investigation on its own initiative (s 73).

For the purposes of an investigation, the members and the personnel of the Commission have the powers and immunity of commissioners appointed under the Public Inquiry Commission Act (RSQ 1964, c 11).

The prohibited grounds of discrimination are "distinction, exclusion or preference based on race, colour, sex, sexual orientation, civil status, religion, political conviction, language, ethnic or national origin and social condition or the fact that he is a handicapped person or that he uses any means to palliate his handicap" (s 10). The fields covered by these prohibitions are advertising, legal transactions, accommodation, access to public areas, employment and employer or employee associations, placement offices and equal pay for equivalent work.

The Charter also recognizes fundamental rights, such as the right to life and the right to assistance of every human being whose life is in peril, fundamental freedoms such as freedom of conscience, of religion, of opinion, of expression, of peaceful assembly and of association, the right of every person to the protection of his dignity, honour and reputation, respect for private life, free disposition of property, inviolability of the home and the right to non-disclosure of confidential information. These rights are complemented by political, judicial, economic and social rights. We should mention, finally, that the Charter binds the Crown (s 54) and that, under Canadian constitutional law, it affects only those matters that come under the legislative authority of Québec (s 55).

4 Comments on Articles 6, 7, 8 and 9 of the International Covenant on Economic, Social and Cultural Rights

ARTICLE 6: THE RIGHT TO WORK

Article 6 of the Covenant deals first with the "right of everyone to the opportunity to gain his living by work which he freely chooses".[1] The Québec Legislature took care to confirm this fundamental right in the Charter of Human Rights and Freedoms (SQ 1975, c 6). The Charter prohibits discrimination in the area of employment, and thereby protects the right of everyone to freely chosen employment. Thus, for example, s 16 of the Charter provides:

> "No one may practise discrimination in respect of the hiring, apprenticeship, duration of the probationary period, vocational training, promotion, transfer, displacement, laying-off, suspension, dismissal or conditions of employment of a person or in the establishment of categories or classes of employment."

Section 18 adds:

> "No employment bureau may practise discrimination in respect of the reception, classification or processing of a job application or in any document intended for submitting an application to a prospective employer."

There is legislation in Québec dealing with technical and vocational training and programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment. The Manpower Vocational Training and Qualification Act (SQ 1969, c 51) provides for the introduction of means for providing better training for workers and an opportunity for employers to use better

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(1) The Québec Human Rights Commission is looking at the possible interpretations of the expression in quotes.

qualified manpower. A fairly large number of regulations have been made under s 30 of this Act. These include:

- Regulation on the Manpower Vocational Training Commissions (Order in Council No 1476 of March 31, 1970)
- Regulation on the vocational training and qualification of manpower and covering the construction industry (Order in Council No 1551-76 of April 30, 1976)
- Regulation on the vocational training and qualification of manpower and covering electricians, pipe fitters, elevator mechanics and electrical machinery operators in sectors other than construction (Order in Council No 3606 of October 20, 1971).

There is also the Labour and Manpower Department Act (SQ 1968, c 43), which gives the Minister of Labour the function of taking, "in collaboration with the other Ministers responsible, such measures as he deems appropriate to facilitate the vocational training, placing in employment, reclassification, retraining, rehabilitation, change of employment and mobility of manpower" (s 3(c)). The same Act provides that the Minister has the duty of compiling, analysing and publishing information concerning various sectors of the field of labour (s 3(d)) and that he may require any information respecting the economic effects of any order or decree, or respecting the labour market (s 11).

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

This article recognizes "the right of everyone to the enjoyment of just and favourable conditions of work". Before examining our legislation concerning all the points mentioned in the article, we should point out that the abovementioned right is guaranteed generally by s 46 of the Charter of Human Rights and Freedoms, which reads as follows:

> "Every person who works has a right, in accordance with the law, to fair and reasonable conditions of employment."

This general principle having been established, Article 7 of the Covenant specifies several items which will be discussed one at a time.

(a) Fair and equal remuneration for work of equal value

Section 13 of the Minimum Wage Act (RSQ 1964, c 144) gives the Commission set up under this Act the power to determine by ordinance, "for stated periods of time and designated territories, the rate of minimum wage payable to any category of employees indicated by it". The Commission carried out this duty by ordinance No 4 (Order in Council No 2123 of July 19, 1972); the minimum wage in Québec is currently $3.15 an hour.

Concerning equal pay, it should first be mentioned that the minimum wage applies to both sexes alike. Moreover, the Charter of Human Rights and Freedoms specifically protects this right to equality in its s 19:

> "Every employer must, without discrimination, grant equal salary or wages to the members of his personnel who perform equivalent work at the same place.
>
> A difference in salary or wages based on experience, seniority, years of service, merit, productivity or overtime is not discriminatory if such criteria are common to all members of the personnel."

(b) Safe and healthy working conditions

Québec has extensive legislation concerning safe and healthy working conditions. We should mention first the Industrial and Commercial Establishments Act (RSQ 1964, c 150) and its numerous regulations. There are general provisions concerning safety and sanitary conditions in s 4 of this Act; in addition, s 5 enables the Lieutenant-Governor in Council to make regulations "to determine the special precautions necessary for the security, health and morality of employees or of the classes of employees indicated by him in industrial and commercial establishments". To mention only a few, there are:

- The Construction Safety Code (Order in Council No 1576 of May 1, 1974, as amended).
- The Regulation concerning industrial and commercial establishments (Order in Council No 3787 of December 13, 1972, as amended).
- Safety code for elevators, hoists, small hoists and escalators (Order in Council No 962 of April 4, 1967).
- Building Code (Order in Council No 3326 of September 29, 1976).

The Public Buildings Safety Act (RSQ 1964, c 149) sets out in s 8 the powers of the inspectors responsible for enforcing safety and health standards in public buildings. In addition, s 39 of this Act defines the power of the Lieutenant-Governor in Council to make regulations respecting the "safety and health of the guardians, workmen, workwomen, clerks or other persons employed in public buildings" (s 39 (1)(c)).

Similarly, the Construction Decree (Order in Council 1287-77 of April 20, 1977, made under the Construction Industry Labour Relations Act (SQ 1968, c 45)) devotes an entire section to questions of "safety, health and welfare" (s 26).

(c) Promotion to a higher level, subject to no considerations other than those of seniority and competence

The Charter of Human Rights and Freedoms enshrines the right of every individual to be promoted to a higher level without discrimination. Sections 10, 16, 19 and 20 of this Act guarantee the achievement of this objective:

> s. 10. "Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion, or preference based on race, colour, sex, civil status, religion, political convictions, language, ethnic or national origin or social condition.
>
> Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right."
>
> s. 16. "No one may practise discrimination in respect of the hiring, apprenticeship, duration of the probationary period, vocational training, promotion, transfer, displacement, laying-off, suspension, dismissal or conditions of employment of a person or in the establishment of categories or classes of employment."
>
> s. 19. "Every employer must, without discrimination, grant equal salary or wages to the members of his personnel who perform equivalent work at the same place.
>
> A difference in salary or wages based on experience, seniority, years of service, merit, productivity or overtime is not considered discriminatory if such criteria are common to all members of the personnel."
>
> s. 20. "A distinction, exclusion or preference based on the aptitudes or qualifications required in good faith for an employment, or justified by the charitable, philanthropic, religious, political or educational nature of a non-profit institution or of an institution devoted exclusively to the well-being of an ethnic group, is deemed non-discriminatory."

The Civil Service Act (SQ 1965, c 14) is a typical example of such legislation. The Civil Service Commission set up by this Act is responsible for establishing the classification of personnel according to criteria previously established by it and approved by the Lieutenant-Governor in Council. Section 34 even mentions that "promotion shall not be determined by seniority, except that for workmen of equal competence seniority may be one of the criteria considered".

There are also in Québec a large number of collective labour agreements which recognize seniority as the principal factor in promotion.

(d) Rest, leisure, reasonable limitation of working hours, periodic holidays with pay, remuneration for public holidays

The Minimum Wage Act (RSQ 1964, c 144) gives the Commission the authority to determine, by ordinance, the working hours and vacations with pay that must be given by an employer to his employees, and the other working conditions considered to be in accordance with the spirit of the Act (ss 12 (23 [13] and 14). Since its creation, the Minimum Wage Commission has passed several ordinances, one of which sets out general minimum working conditions and another governs paid vacations.

Construction workers, for their part, are governed by uniform provisions contained in the Construction Decree. Section 20 mentions compulsory annual vacations, holidays and indemnification. Section 21 deals with standard working hours, shift work and rest periods. There are also provisions concerning overtime (s. 22), payment of certain premiums (s. 23) and special leave (s. 27).

Concerning the employees of hotels, restaurants and clubs, the Weekly Day of Rest Act (RSQ 1964, c 145) obliges the owners, occupants or tenants of such establishments to give their employees one day of rest, of twenty-four consecutive hours, in each week (s 11).

Finally, all unionized workers in Québec have their working conditions set out in collective agreements, and these agreements contain provisions concerning rest, leisure, working hours, holidays with pay and remuneration for public holidays.

ARTICLE 8: TRADE UNION RIGHTS

(a) Right to form or join the trade union of one's choice for the promotion and protection of one's economic and social interests

This right is extensively recognized in Québec. The most important legislation in this regard is undoubtedly the Labour Code (RSQ 1964, c 141), which provides in s 3 that "every employee has the right to belong to an association of employees of his choice, and to participate in the activities and management thereof". This Code deals with the accreditation of associations of employees, collective agreements, settlement of disputes, and so on.

The unionization of construction employees is governed by the Construction Industry Labour Relations Act (SQ 1968, c 45). Section 33 confirms this type of worker's freedom to unionize.

The unionization of civil service employees is governed by the Civil Service Act (SQ 1965, c 14), in ss 68 to 75 inclusive.

There is also the Professional Syndicates Act (RSQ 1964, c 146), which, in s 1, permits the formation of associations or professional syndicates upon the application of fifteen or more persons.

We should mention in conclusion the Charter of Human Right and Freedoms, which provides that everyone has the right of association (s 3) and prohibits discrimination in this regard (s 17).

(b) Right of employees to establish national federations or confederations or international trade-union organizations

The Labour Code (RSQ 1964, c 141) implicitly recognizes this right when it defines an association of employees as follows: "a group of employees constituted as a professional syndicate, union, brotherhood, or otherwise, having as its objects the study, safeguarding and development of the economic, social and educational interests of its members . . ." (s 1(a)).

The Construction Industry Labour Relations Act (SQ 1968, c 45) has essentially the same provision, and is even more specific. Section 1(a) defines an association as "a professional union representing construction employees or any unincorporated group of construction employees, a federation or confederation of such unions or groups . . ."

Finally, there is the Professional Syndicates Act (RSQ 1964, c 146), which allows federations of unions in s 18 and confederations in s 19, and the Civil Service Act (SQ 1965, c 14), which deals with affiliation in ss 73 and 74.

(c) Free functioning of unions

This freedom is protected in Québec by several legislative provisions, but is subject to limitations based on the interests of democratic society, national security and public policy or on the protection of the rights and freedoms of others.

Thus, the Labour Code protects union activities in several ways; for example, it specifically prohibits interference by the employer in union activities (s 11), it prohibits the use of intimidation or threats to induce anyone to become, refrain from becoming or cease to be a member of an association of employees (s 12), it prohibits use of any kind of force with regard to members of an association of employees where their right to employment is concerned (s 13), and so on. It also limits union activities, in particular with regard to soliciting during working hours (s 5), meetings at the place of employment (s 6) and interference in the activities of an association of employers (s 11).

There are also provisions concerning the union activities of construction employees in the Construction Industry Labour Relations Act (SQ 1968, c 45) and in the Construction Decree (Order in Council 1287-77 of April 20, 1977).

It should be mentioned, finally, that certain unions have been placed under a form of trusteeship in order to maintain public order. The following two Acts are examples of such legislation:

- An Act respecting the placing of the "International Union of Elevator Constructors, locals 89 and 101" under trusteeship (SQ 1974, c 116).
- An Act respecting the placing of certain labour unions under trusteeship (SQ 1975, c 57).

In fact, all the limitations on the free functioning of unions are provided for by law and justified for the reasons mentioned in the first paragraph of this section. The greatest limitation is naturally with respect to the right to strike, which, although it plays a major role in our system, is strictly regulated. We shall discuss it in the following section.

(d) Right to strike

The Labour Code devotes a chapter to this subject (Chapter V). First, it provides that an association of employees is allowed to strike under certain conditions:

(1) the association must be accredited;
(2) the time periods set out in s 46 must be complied with;
(3) there must be no collective agreement in effect (ss 94 and 95).

The Code then cites a case where strikes are prohibited in any circumstances, namely the case of police officers and firemen in the employ of a municipal corporation (s 93). It deals with strikes by employees of a public service in s 99; in this case, strikes are prohibited unless the association of employees concerned has acquired the right to strike under s 46 and has given the Minister at least eight days' prior written notice of the time when it intends to resort to such action. If such a strike endangers public health or safety an interim injunction may be granted.

In the case of construction employees, strikes are permitted "from the original expiry date of the decree, unless the dispute is referred to a council of arbitration" (Construction Industry Labour Relations Act, s 12). It is prohibited while a decree is in effect (s 23).

The Civil Service Act (SQ 1965, c 12 [14]) specifically prohibits strikes by peace officers (s 75). It also prohibits strikes by any group governed by its provisions "unless the essential services and the manner of maintaining them are determined by prior agreement between the parties or by decision of the Labour Court established by the Labour Code" (s 75).

ARTICLE 9: RIGHT TO SOCIAL SECURITY

This article requires the States Parties to recognize the right of everyone to social security, including social insurance.

There is a considerable amount of legislation in Québec on this subject, and we feel it could be improved upon. This is why we feel that after we have described the different social legislation, we must make a detailed analysis of it, in light of the rights recognized by the Québec Charter of Human Rights and Freedoms.

The Acts and regulations enacted in connection with these rights are closely linked to respect for the individual and no doubt constitute the most important legislation in the daily life of Quebecers.

I - ENUMERATION OF SOCIAL LEGISLATION

Section 45 of the Charter of Human Rights and Freedoms recognizes that every person in need has the right, "for himself and his family, to measures of financial assistance and social measures provided for by law, susceptible of ensuring such person an acceptable standard of living".

The Social Affairs Department Act (SQ 1970, c 42) provides that the functions of the Minister "shall be to prepare and propose to the government policies respecting social affairs for the province of Québec in the fields of health, social services, social aid, social allowances and social insurance so as to assure a quality of life and standard of living suitable to each individual and family" (s 2).

The Social Aid Act (SQ 1969, c 63) establishes a system of benefits which are granted "on the basis of the deficit which exists between the needs of, and the income available to, a family or individual, provided that such family or individual is not excluded therefrom by reason of the value of the property which it or he owns".

Social aid benefits are furnished in money, in kind or in the form of services, a loan, or a guarantee of the repayment of a loan (s 4) and for ordinary needs, such as food, clothing and household and personal requirements, as well as for special needs, which are those related to preservation of health, loss compensation and favouring employment. Thus, in a disaster, an allowance can be granted for the replacement of furniture or, in the area of employment, the cost of studies undertaken to learn a trade or acquire a technical skill can be paid for by social aid.

Everyone who feels wronged by a refusal, who considers the aid or the form of aid granted to be insufficient or who wishes to dispute the suspension of or reduction in social aid may apply for a review. The reply to such an application for review must be provided within thirty days (s 29) and must also mention the right to appeal to the Social Affairs Commission.

The Commission was created by the Social Affairs Commission Act (SQ 1974, c 39).

Its function is to hear appeals brought under the Social Aid Act (SQ 1969, c 63) and the Québec Family Allowances Plan (SQ 1973, c 44 [36]), requests by persons to have access to their medical records under the Health Services Act, as well as appeals concerning decisions on permits under the Public Health Protection Act (SQ 1972, c 42), appeals following a reconsideration by the Pension Board, under the Québec Pension Plan Act (SQ, c 7) and appeals respecting the recommendations of revisory committees brought under the Health Insurance Act (SQ 1970, c 37).

The Act respecting health services and social services (SQ 1971, c 48) provides in s 4 that:

> "Every person has the right to receive adequate, continuous and personal health services and social services from a scientific, human and social standpoint, taking into account the organization and resources of the establishments providing such services."

Section 5 adds that:

> "Health services and social services must be granted without discrimination or preference based on the race, colour, sex, religion, language, national extraction, social origin, customs or political convictions of the person applying for them or of the members of his family."

The Act applies to private establishments, establishments affiliated with a university, local community service centres, hospital centres, social service centres, as well as reception centres and professionals' private consulting offices. It provides for the setting up and administration of the establishments and for the issuance of licences, as well as their suspension and cancellation and the refusal to renew them.

The Health Insurance Act (SQ 1970, c 37) provides for free consultations and care to be dispensed to Québec residents for the following acts, services and medication.

- All services rendered by physicians that are medically required.
- The services of oral surgery required which are rendered by a dental surgeon in a university or hospital.
- The services determined by regulation that are rendered by optometrists.
- Dental care for everyone under the age of twelve (note: the age limit is increased every year by one year).
- The cost of services and medication furnished by pharmacists on the prescription of a physician or a dental surgeon for persons entitled to social aid, persons receiving an allowance for the blind or persons receiving the (federal) monthly guaranteed income supplement.
- The cost of services and medication for persons between sixty and sixty-five years of age who are eligible for a (federal) old age allowance or an allowance for the blind or the disabled.
- The cost of purchase, fitting, replacement or repair of prostheses and orthopedic or other devices determined by regulation which compensate for a physical deficiency or deformity.

This Act also provides for reimbursement of the cost of guaranteed services, provided outside Québec, but this cost may not exceed that which could have been claimed in Québec for the same service.

Finally, this Act provides for the conclusion of agreements between the Minister of Social Affairs and any class of professionals in the field of health, for the purposes of applying the Act, together with provisions for review committees and councils of arbitration.

The Hospital Insurance Act (RSQ 1964, c 163) guarantees Québec residents free hospital services. For this purpose the Minister of Social Affairs enters into contracts with all the hospitals in order to implement the Act.

The Child Aid Clinic Act (as amended by SQ 1970, c 42) gives the clinics responsibility for the study of the conditions peculiar to juvenile delinquents and children apparently or actually eighteen years of age who need protection. Whenever it appears necessary or useful for the welfare of a child brought before the Social Welfare Court or any other court, a careful examination must be made by the clinic with a view to placing the individual under observation, considering the maladjustment factors and suggesting the requisite measures to assist in his readjustment.

The Youth Protection Act (L.Q. 1977, c 20), provides for the creation of a Youth Protection Committee, whose function it is to protect children who have been subjected to physical abuse as a result of violence or negligence.

The Québec Pension Plan (SQ 1965, c 24) provides for the establishment of a Board responsible for collecting premiums and paying pensions to those eligible. Its approximately 240 sections set out in detail the organization and administration of the Plan.

The Québec Family Allowances Plan (SQ 1973, c 36) provides that an allowance is to be granted for each month to the mother of every child, or, if there is no mother, to the father or the individual who wholly or substantially maintains such child, until the child reaches the age of eighteen. This allowance supplements the similar federal plan. The amount of the allowance is reassessed at the beginning of each year.

The Public Health Protection Act (SQ 1972, c 42) provides that the function of the Minister of Social Affairs shall be to co-ordinate the measures for the protection of public health and the distribution and supervision of the services relating to such protection; to participate in the preparation of programs of popular education, training and research in the fields of prevention, diagnosis and treatment of diseases, rehabilitation of the sick and public health generally; to assure the access of the population to the services provided for; to establish and maintain a system gathering and analysing social, medical and epidemiological data and compile information on births, marriages, divorces, annulments of marriage and deaths for demographic purposes; to establish a system for gathering and analysing data on the frequency and distribution of disease and in particular of diseases having social repercussions such as alcoholism and other addictions; and finally, to see that services for the prevention of and immunization against certain diseases and services for the prevention of dental diseases are provided. For this purpose, there are regulations which list the diseases which must be reported, and the Act sets out the cases in which immunization may be compulsory. In the case of venereal diseases, the patient may only be designated by a number. The Act also provides for certain emergency powers, in cases where public health is in danger throughout or in part of Québec. Following a declaration by the executive, the Minister can order the opening or closing of any establishment, educational institution or meeting place, prohibit entry into or exit from a municipality, order compulsory immunization of certain groups of the population or take any other steps he considers expedient for the protection of public health.

The Act also provides that water for consumption supplied by a filtration plant must have a fluoride content of 1.2 parts per million.

The Act to establish the Office for the Prevention of Alcoholism and other Toxicomanias (SQ 1968, c 48) gives the agency it establishes responsibility for promoting research on drug addiction and alcoholism, disseminating information on the means of preventing and treating drug addiction and alcoholism and of rehabilitating drug addicts and alcoholics, as well as assisting other organizations set up to fight drug addiction and alcoholism.

The Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (SQ 1975, c 55) provides that workers suffering from a permanent disability resulting from silicosis or asbestosis are entitled to a fixed indemnity, proportionate to the degree of disability and their age, as well as to a complementary indemnity equivalent to ninety per cent of their disposable net income. These indemnities are indexed annually to the average Canadian wage.

The Workmen's Compensation Act (RSQ 1964, c 159) provides for the payment of compensation to all eligible persons who have been injured in an accident arising in connection with their employment. This compensation is equal to seventy-five per cent of the employee's gross wage, the maximum eligible wage being set at $18,000. The compensation is indexed annually to the average Canadian wage. For 1978, the maximum weekly allowance possible is $259.62. These amounts are not taxable. Moreover, medical expenses are covered, as is travel for purposes of treatment. In some cases, the cost of prostheses is also covered, as is the cost of domestic help required for victims of accidents who are unable to move about.

We should also mention the Family and Social Affairs Council Act (SQ 1970, c 93), where it is provided that the Council may, in co-operation with the Minister of Social Affairs, undertake the study of any matter relating to social affairs and the family in the fields of health, social services, social aid, social allowances and social insurance. These studies may be carried out in co-operation with universities or researchers.

Finally, in order to assist in the training of young researchers, the Québec Health Research Council, created in 1974 by an Order in Council, grants scholarships and finances the establishment of researchers who are planning to work in the field of health, particularly epidemiology. Scholarships are also granted for research carried out in hospitals affiliated with universities.

II - ANALYSIS OF SOCIAL LEGISLATION*

1. GENERAL INTRODUCTION

Section 67(d) of the Charter of Human Rights and Freedoms gives the Commission the duty to "make an analysis of any Québec statutes existing prior to this Charter that may be inconsistent with it and make the appropriate recommendations to the Government".

This is an onerous task which must be approached methodically.

First, on the basis of the Charter, a grid must be prepared which will be used to analyse all such legislation. This grid includes all the rights recognized by the Charter: the right to equality, and hence not to be the victim of discrimination, the right to privacy, the right to counsel and the right to non-disclosure of confidential information, to name only a few.

Secondly, it was necessary to select the legislation that was to be the subject of this study. It seemed to us that the field of social affairs was one of those most likely to be open to criticism, and this is why we chose to analyse the Acts administered by the Department of Social Affairs.[1] Since the aim of these Acts is to provide social protection for individuals, families and groups, it was reasonable to take an interest in such legislation, which is so closely linked to respect for the individual, particularly since no other group of Acts affects the daily life of Quebecers so directly.

Each of these Acts, including the regulations, was therefore viewed in light of the rights recognized by the Charter. It can be seen that it is in the areas of discrimination, protection of privacy and the right to information that the most observations were made. In addition, we noted certain provisions of this legislation in which it seemed to us that the overly broad discretion given to the supervisory authority might lead to denials of justice.

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* The recommendations contained in this analysis were reviewed by the Department of Social Services. Most were accepted. Current practices were modified accordingly.

In order to relate this research to daily reality, the Commission met with a number of people involved in applying the legislation, either as "users" or as those responsible for its implementation.

Before commencing a systematic study of these problems, which is a strict duty imposed on us by the Charter, we should acknowledge at the outset the difficulties we encountered during our analysis.

The interviews we conducted convinced us that the most serious problems do not always arise in the application of the legislation, but rather result from the lack of concrete recognition of the right to an acceptable standard of living (s 45 of the Charter) and of the right to work, as recognized by the International Covenant on Economic, Social and cultural Rights.

Section 45 of the Charter provides that "every person in need has a right, for himself and his family, to measures of financial assistance and to social measures provided for by law, susceptible of ensuring such person an acceptable standard of living".

The International Covenant on Economic, Social and Cultural Rights, which the Québec government accepted on April 21, 1976, by Order in Council No 1438-76, as part of a joint effort by the federal and provincial governments, contains several provisions whereby the States Parties to this Covenant undertake to take the necessary steps to have the right to work and the right to an acceptable standard of living recognized.

These include Article 6, para 1:

> "The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right."

We should also mention Article 7:

> "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:
>
> (a) Remuneration which provides all workers, as a minimum, with:
>
> . . . . .

> (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;"

and Article 11, para 1:

> "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right . . ."

Québec must take steps to ensure that these rights are recognized. Undoubtedly the implementation of practical recognition of an acceptable standard of living would require calculations and studies which the Commission does not have sufficient resources to carry out. We are well aware, moreover, that to speak of the right to work in Québec, where the unemployment rate is over 11 per cent, is a proposition that is somewhat unrealistic. We must still recognize, however, that these are the real problems we face, and that the principle of the equality of all human beings in worth and dignity, contained in the preamble to the Charter, is certainly an ideal which it should be possible to pursue by concrete means, especially since Québec's ratification of the Covenant on economic and social rights obliges Québec to take steps in this regard, and amend its legislation where necessary.[2] Forcing people in need to beg for help and to live off the State is not the appropriate solution. What is needed is measures to mobilize individuals while respecting their right to work and their right to an acceptable standard of living.

While we were analysing this legislation, we came up against what can certainly be called the tentacles of government authority when it intervenes in the lives of citizens, particularly in the area of social affairs. The administrative machinery is overwhelming. In order to operate it needs to know facts that concern the individual beneficiary. The serious aspect, however, is that the government, by the powers it is given by Acts and regulations, is induced to increase further and further the amount of information it requires from the individual. What is more, the information requested is not always related to the aims of any of these Acts. The fact that such forms are in circulation or, even more significantly, that a public servant can demand any information or document he considers necessary in connection with a request for service (Regulation under the Act respecting health and social services, infra note 55), or that a Board can, notwithstanding any other Act, obtain any information from a government department or agency whenever this is necessary for the application of the Act (Pension

Plan Act, s 215) seems to us to invite numerous abuses. The result may be that people will hesitate to request the services to which they are entitled, in order to preserve their privacy. It is therefore necessary that the powers of the government in this area be limited to what is indispensable to the application of the legislation, in order to protect individuals from any form of alienation.

Thus those who, owing to their economic situation, must ask for assistance from the government are particularly exposed to an invasion of their private lives. Such people often have the feeling that they must trade their privacy for certain monetary benefits. It is true that the money given to those in need belongs to the population as a whole, and that the government is responsible for managing it and must therefore distribute it fairly. This means, in the situation at present authorized by law, investigations that sometimes offend the dignity of the individuals concerned. Here again, the answer to these questions is not easy, but one would have to be blind not to see the importance of these concerns.

We would also like to emphasize another recommendation that seems important to us, namely the recommendation that everyone's right to have access to his records be recognized. This recommendation by the Commission is the outcome of a series of submissions in this connection.[3]

Everyone concerning whom a record must be kept under one of the Acts administered by the Department of Social Affairs should have the right to consult this record, and to have the contents corrected where necessary. Forms should be prepared and made available to users for this purpose. In addition, in the event of a refusal by the authorities, the person concerned could take advantage of the remedy already provided for in s 7 of the Act respecting health services and social services (see s 3.2.1).

In other words, the right of access to one's records should benefit from protection that is more within the reach of those concerned. Giving someone the right to apply to a judge or the Social Affairs Commission to see his records presupposes a determination that is not common. What should be provided is first of all the right of anyone to see his file and have it corrected. The enunciation of this right should be accompanied, secondly, by forms facilitating its exercise, and, thirdly, by remedies and procedures aimed at ensuring that the exercise of this right is respected through recourse to the judicial system.

Moreover, if information taken from one of these files is to be sent either to another department or to a section other than the one keeping the files, the person concerned should be notified and should be able to object to the transfer.

Having placed particular emphasis on certain aspects of our recommendations, especially regarding the protection of privacy, we would like to point out, finally, that any provision in any of these Acts that conflicts with the rights recognized by the Charter should be amended. We shall now take a detailed look at the result of our analysis.

2. DISCRIMINATION

2.1 Introduction

We analysed the Acts administered by the Department of Social Affairs by making a list of all the provisions that might possibly be used for discriminatory purposes. In some cases we came to the conclusion that the Act itself or its regulations were discriminatory.

Sometimes the fact of asking for a certain piece of information about a person does not necessarily involve discrimination, but there are grounds for fearing that such information will be used for discriminatory purposes. We felt that this summary should be compiled since we believe that any information that is not indispensable should be eliminated from the forms.

Two of these Acts specifically prohibit discrimination based on the race, colour, sex, religion, language, national extraction, national [social] origin, morals or political convictions of a person requesting services, or of one of the members of his family.[4] These grounds are not exactly the same as those prohibited by the Charter of Human Rights and Freedoms. As of December 19, 1977, a new prohibited ground of discrimination has been added to the Charter: sexual orientation.[5] It might be assumed that this ground was already covered by these two Acts under "morals".

2.2 References that might lead to discrimination on the basis of ethnic origin

2.2.1 Information requested in forms

There are references to ethnic or national origin in the social legislation, principally in connection with the requirement that everyone must complete an application form before using public services.

In the regulations under the Act respecting health services and social services, for example, it is provided that a person admitted to or registered or listed in an establishment is obliged to state not only his present name but also his name at birth and his place of birth.[6] Section 16 of the draft regulation[7] specifies that anyone who wishes to receive social or health services must fill out form No XVI, reproduced in the schedule to the regulation. This form asks for the applicant's place of birth, his mother's maiden name and father's given name.

This Act is not the only one to require this type of information. In the regulations under the Public Health Protection Act[8] the birth registration form asks for the place of birth of the parents and their mother tongue; the marriage certificate requires not only the place of birth of the spouses but also the names of their parents, including the mother's name as it appears on the birth certificate, and their respective places of birth. A death certificate requires similar information.[9] The same type of information is required by the regulations under the Québec Pension Plan[10] and the Hospital Insurance Act.[11]

Requesting such information does not constitute a violation of human rights. However, knowledge of these facts might possibly lead some people to discriminate. The Commission suggests that the forms be reviewed to verify whether all the information is necessary. In cases where it is necessary for statistical or other purposes, we should ensure that the individuals are not identified unnecessarily.

2.2.2 Special rules and terms and conditions applicable to certain ethnic groups

It is provided in the Social Aid Act that the Lieutenant-Governor may make special rules and terms and conditions applicable to Eskimos and Indians.[12] These regulations must therefore be analysed carefully to ensure that the rights of all members of these groups are given full recognition. So far we have not found any provision that has the effect of destroying or prejudicing the rights of these groups.

2.3 References that might lead to discrimination on the basis of sex

2.3.1 Information requested in forms

In this section we wish to show that certain forms indicate that a different attitude is taken depending on whether the individual is a man or a woman.

The most notable case is under the Health Insurance Act.[13] Pursuant to the regulations under this Act the husband's surname appears on the health insurance card of a married woman, unless the woman applies in writing to have the card issued in her maiden name. We are of the view that the procedure set out in the draft regulation under the Act respecting health services and social services, where it is provided that a married woman should be admitted, registered or listed under her maiden name,[14] should be adopted here. If a married woman wished her husband's name to appear on her health insurance card, she could submit a request in writing to this effect. It is in the interests of the principle of equality that we are asking that a certain social custom be reversed.

There are other forms which indicate that distinctions are made on the basis of whether the individual is a man or a woman. For example, in the regulations under the Hospital Insurance Act,[15] distinctions are made in the manner of asking for surnames and given names. The name of the employer, the father or the husband are requested. These forms should be standardized so that the same information is requested of both men and women.[16]

2.3.2 "Paternal authority"

Section 36 of the Public Health Protection Act[17] uses the expression "paternal authority". This expression suggests that the mother does not play an important role in major family decisions. Section 47 of the Charter states that: "Husband and wife have, in the marriage, the same rights, obligations and responsibilities." Title Eighth of [the first Book of] the Civil Code, which used to contain the expression "paternal authority", was recently amended to read "parental authority".[18] This former expression is found in s 7a of the Act respecting health services and social services.[19] We feel that this Act should be amended in the same manner.

2.3.3 "Dependant"

In the Health Insurance Act there is a definition of who the "beneficiaries" are.[20] In the regulations,[21] a "dependant" is defined as the spouse and any single person under the age of 18 who resides on a permanent basis with a person referred to in ss 4 to 7 of the Health Insurance Act, as well as in title II of the regulations concerning the Health Insurance Act. This section leads one to believe that either husband or wife can be the "dependant". However, the discrimination on the basis of sex becomes apparent when one considers the following section:[22]

> "A wife may validly register her consort and any person dependent upon her or upon him if, by reason of absence, mental or physical disability or other reasons, the consort cannot do so."

It can therefore clearly be seen that the "dependant" is always the woman and the word "spouse" in the abovementioned section means the female spouse. More specifically, a married woman can be a beneficiary only where her husband is disabled for one reason or another. It would be better to recognize the equality of the spouses in ss 1.01 (e) and 3.02 of the Regulations by providing that the spouses will both be the persons responsible and that the term "dependant" applies only to single persons under the age of 18 who are living with the beneficiaries.

The same type of discrimination exists in the Regulations under the Public Charities Act.[23]

2.4 References that might lead to discrimination based on civil status

It should first be noted that the two Acts which expressly provide that there shall be no discrimination in their administration[24] fail to mention civil status as a prohibited ground of discrimination. It would be preferable to make this addition in order to avoid confusion.

2.4.1 Information requested in forms

We should point out that on the forms for the information required under the Act respecting health services and social services, the Health Insurance Act, the Québec Pension Plan, the Public Health Protection Act and the Hospital Insurance Act, the civil status of the individual must be indicated. It is interesting to note that pursuant to the regulations under the Act respecting health services and social services, when a mayor proposes a candidate for a position as a member of the Board of Directors of the regional council in his area, he is obliged to indicate the candidate's civil status.[25] On the other hand, when an appointment is made by an establishment, university or educational college, the civil status of the candidates need not be indicated.[26]

Once again, these requirements do not in themselves violate human rights, but one wonders whether it is absolutely necessary to have this information. For example, is the difference between the requirements for appointments to the Boards of Directors and for those to the regional councils something which was expressly intended by the legislator, or merely an oversight?

2.4.2 Matrimonial status

The definition of civil status is put into question in certain Acts where the term "spouse" does not necessarily mean a person who is legally married but also includes persons living together as husband and wife.[27]

The Québec Pension Plan defines a "surviving spouse" as a person who can establish that for a number of years immediately before the death of the taxpayer:

(a) he had been residing with such contributor;

(b) he had been maintained wholly or substantially by the contributor;

(c) he had been publicly represented by the contributor as his spouse.[28]

A new Act[29] has eliminated the requirement of paragraph (b), at least where the death occurred after July 19, 1977. Section 5 of the same bill provides that in the case of divorces occurring after December 31, 1976 or marriages annulled after that date, each former spouse can ask the Board to award him half his former spouse's unadjusted eligible earnings received or acquired by the latter during the marriage. This provision allows a former spouse who had left the labour force or earned little during the marriage to participate in the plan. This Act rectifies a situation which had been prejudicial, particularly to women.

2.5 References that might lead to discrimination on the basis of social condition

First of all, it is not always easy to identify discrimination on the basis of social condition owing to the broad criteria that may form part of its definition.[30] However, we would like to mention certain factors that might make such discrimination possible.

2.5.1 Information requested in forms

The legislation administered by the Department of Social Affairs requires the completion of certain forms requesting information that might indicate social condition. We should reiterate that requesting such information does not in itself constitute discrimination. One simply wonders whether this information is necessary for implementing the Act and whether it can be collected without its being used to identify unnecessarily the person concerned.

The regulation under the Hospital Insurance Act[31] provides for forms which ask for the beneficiary's occupation. The draft regulation under the Act respecting health services and social services[32] requires that everyone who wishes to obtain community services or social services must provide the name of the employer, the number of years of schooling completed by the family head and the occupation of the person responsible in the family.

In the regulation under the Public Health Protection Act[33] it is provided that the number of years of schooling completed by the mother must be given for a birth certificate, whether the child is born alive or is stillborn. In the case of a marriage certificate the number of years of education completed by each of the spouses must be given. Even in the case of a death certificate the number of years of education completed by the deceased must be given.[34]

2.5.2 Persons who have been involved in the criminal process and others

Certain sections of the regulation under the Public Health Protection Act[35] could be considered to be inconsistent with the Charter. Without knowing the purpose of these regulations, it is difficult to determine whether the restrictions are imposed in good faith. It seems that the regulations could be revised to ensure that there is a connection between the permit required and the offence in question.

An example of such restrictions is found in s 7.014 of the regulations, which provides that the Minister shall not issue or renew a permit for embalmers, funeral directors or laboratory or ambulance service operators:

(a) if the applicant is an undischarged bankrupt or if the corporation, partnership or association he represents is bankrupt or insolvent;

(b) if, during the two years preceding the application, the applicant has been personally convicted, or if the corporation, partnership or association he represents has been convicted:

  (i) of an offence under the Act or this regulation;

  (ii) of an offence under the Act or regulations of another province respecting laboratories, ambulances or public health in general; or

(c) if, during the five years preceding the application, the applicant was guilty of theft or fraud, of attempted theft or of an offence under s 189(1)(e) of the Criminal Code.

Similarly, in order to obtain a position as an ambulance driver or attendant a person must:[36]

> not have been convicted or pleaded guilty to an offence under the Criminal Code prosecuted by way of indictment, or pleaded guilty pursuant to an information for an offence under the Criminal Code which, according to the information, should be prosecuted by way of indictment.

The Act respecting health services and social services imposes such restrictions on the political rights of persons who have been involved in the criminal process. Section 54b provides that:

> No person may be a member of the board of directors of an establishment if:
>
> . . . . .

(c) he has been condemned within the preceding five years for committing an offence or crime that may entail up to three years of imprisonment.

It should be noted that this restriction applies even if the judge decided that a suspended sentence was in order.

Finally, s 104 of the same Act provides that the Minister may suspend, cancel or refuse to renew the permit of any holder who is insolvent or about to become so.[37] Section 23 of the Charter requires a fair hearing by a tribunal for a determination of rights and obligations. It seems unfair to us that a permit can be revoked, without a hearing, when an administrator decides that a person is about to become insolvent.

These sections could be considered discriminatory under the Charter if it is not established that the restrictions they contain are in all cases required in good faith.

2.5.3 The unemployed

There are two sections in the regulations under the Social Aid Act[38] which might be prejudicial to the unemployed. The first is s 1.04(b), which provides that a person who has lost his job as the result of a work stoppage due to a collective dispute is not eligible for benefits. It seems that at some point the Minister issued a directive giving the concept of "collective dispute" a very broad interpretation. The result of this directive was that workers who were not themselves on strike or locked out but who had been laid off as the result of a slowdown owing to a strike would be denied the right to social aid. The Mouvement Action-chômage (movement to fight unemployment), together with the Association pour la Défense des Droits Sociaux (association for the defence of social rights) and the Conseil Central des syndicats nationaux de Montréal (Montréal central council of national trade unions) gave a press conference on November 17, 1976 denouncing this policy.[39] The situation has been rectified for those who are not on strike or locked out, but it remains the same for those who are. The Commission does not have the resources at present to study all the sociological data that must be weighed for a just solution to be arrived at in this case. Perhaps the recent anti-scab statute can be used to re-establish some equilibrium in the solution of this problem.[41]

The second section that raises a problem is s 3.07:

> Aid for ordinary needs shall not exceed:
>
> (i) $92 per month, in the case of an individual capable of working and less than 30 years of age;

(ii) \$184 per month, in the case of a family without dependent children or which did not have any who died where the two consorts are capable of working and less than 30 years of age.

This classification discriminates on the basis of age. Unfortunately, the Charter does not prohibit such discrimination at present. However, it could be said that the combination of age and unemployment represents a distinction on the basis of social condition. It should be pointed out here that an individual capable of working who is 30 years of age would receive \$253 per month under s 3.01 of the regulations. In the case of a couple, the ordinary benefit would be \$403 per month. Section 3.07 limits this benefit, however, in the case of persons less than 30 years of age, but only where they are single or married with no children (it should be noted that this legislation does not apply to couples without dependent children if they have previously had a child who died).

In a recent judgment[42] Judge Péloquin of the Superior Court ruled that this section (3.07) was ultra vires, since s 48(a) of the Act does not give the Lieutenant-Governor the right to restrict benefits by setting up categories that are not referred to in the Act. For this reason we are of the view that s 3.07 contravenes s 45 of the Charter, which states:

> "Every person in need has a right, for himself and his family, to measures of financial assistance and to social measures provided for by law, susceptible of ensuring such person an acceptable standard of living."

Section 56 of the Charter tells us that a regulation is a "law" or "Act" for purposes of interpretation. If s 3.07 is ultra vires, however, it is not "provided for by law". One thing is clear: an individual cannot have an acceptable standard of living if he receives only \$92 per month.

3 PROTECTION OF PRIVACY

3.1 Introduction

There are two sections of the Charter which deal with individual privacy. Section 5 states that every person has a right to respect for his private life. This right is confirmed in s 9, which provides that every person has a right to non-disclosure of confidential information. The privilege belongs to the client rather than the professional; a result of this can be seen in the second paragraph of s 9, which provides that the professional is not obliged to keep the secret if he is authorized by his client to divulge it.

3.2 Immunity for official acts done in good faith in the performance of official duties

It should be pointed out first that a provision to the effect that the Minister, officials and employees cannot be sued by reason of official acts done in good faith in the performance of their duties is contained in the Hospital Insurance Act,[43] the Québec Health Insurance Board Act[44] and the Québec Pension Plan.[45]The same protection exists for the curator in the Supplemental Pension Plans Act.[46] Given the difficulty of proving bad faith, it can be deduced that a person's remedy for an infringement of his right to privacy in the administration of these Acts is in fact fairly difficult to exercise.

There is no question here of recommending the complete elimination of this immunity, only of limiting its application where this involves an infringement of privacy. As an example, we should mention that s 86 of the Charter of Human Rights and Freedoms provides that no civil action may be brought as a result of the publication of a report by the Commission. Despite this immunity, s 87(b) provides that every person is guilty of an offence:

> "who, being a member of the commission or of its personnel . . . discloses, without being duly authorized to do so, anything that has come to his knowledge in the performance of his duties."

Moreover, the Social Aid Act[47] provides that every officer, employee or trustee and every person participating in the carrying out of the Act who reveals information without being authorized to do so is guilty of an offence and is liable, on summary conviction, to a fine of not less than $100 and not more than $1,000 and to payment of costs (s 52).

We think that a similar section should be included in any Act dealing with information related to the private lives of citizens.

3.3 Act respecting health services and social services[48]

The medical records of patients in an establishment are confidential. No one may give or obtain disclosure of them, even for the purposes of an investigation, except with the express or implied consent of the patient, on the order of a court or in the other cases provided for by the Act or regulations. The same applies to persons receiving social services from an establishment (s 7).

It should also be noted that the records and minutes of the clinical staff advisory council and the records and minutes of the council of physicians and dentists and of each of their committees are confidential and no one may gain access to them unless he is a member of any of such councils or committees, or except the Commission or the representatives of a professional corporation in respect of its members, in the performance of functions attributed to them by law (s 78).

Despite these provisions, such records may be disclosed, with the permission of the director of the establishment, to a professional for study, teaching or research purposes, without the permission of the persons concerned and without their being notified (s 7, para 2). The definition of a professional contained in the regulation is a very broad one:[49]

> "every person who holds a college or university diploma and who, in an establishment, is occupied full-time in functions within the range of activities covered by the said diploma, and also every person who performs therein the duties of pediatrist; also members in good standing of:" [followed by the relevant corporations and associations].

This definition in principle allows personal records to be disclosed in countless cases.

3.3.1 Examination of confidential records

Section 7 gives everyone the right to see his record by applying to a judge of the Superior Court, Provincial Court or Welfare Court or to the Commission to obtain disclosure of it. However, if the judge is of the view that it would be seriously prejudicial to the health of that person to see his record, he can decide to prohibit him from having access to it. We wonder about the right of a judge to refuse someone the right to know facts relevant to his private life even, indeed especially, where the news is bad. If the person goes as far as asking a judge for permission to see his record, his desire to know the truth about his situation must be respected.

Section 7a poses another problem in that the right to see the record is not restricted to the person concerned. Since the passing of Bill 10[50] this right has been extended to the heirs and legal representatives of a beneficiary as well as to those entitled to payment of a benefit under an insurance policy on the life of a beneficiary. The section provides that these persons are to be considered beneficiaries for the purposes of s 7.

The laudable aims of this section should not be criticized, but their practical results could be disastrous. It must be remembered that s 7 applies to any medical or social record and that disclosure of such personal information without the permission of those concerned might lead to abuses. For example, a child who is an heir would have the right not only to consult a record concerning the marital problems of his parents, including the testimony given during a therapy session, but also to authorize others to see these records. There is nothing in the Act which specifies what records will be available to persons authorized under s 7a. It seems to us that this right is too generally conferred and that it should be expressly restricted to records that are related to the rights of the persons concerned.

Despite all the problems raised concerning s 7 in its present form, the principle of access to one's records seems to us to be a fundamental right, and we accordingly suggest that an analogous provision be included in all legislation providing for the establishment of a record.[51] Moreover, the person concerned could be given the right to make comments on his record in writing. This right is already recognized in the case of credit files, it should be noted, by s 45 of the Consumer Protection Act.[52]

3.3.2 Information requested in forms

At present anyone admitted to or registered or listed in an establishment must declare his present name, his name at birth, his sex, his civil status, his address, his mother's maiden name and the surname and given name of his spouse; this information is sent to the Minister by the establishment.[53]

The draft regulation would go even further by requiring that any person wishing services give his present names, address, telephone number, the surname and given name of his spouse, the name at birth, date and place of birth, mother's maiden name, father's given name, civil status, employer, years of schooling of family head, number of children and occupation of person responsible in the family. A copy of all this information must be returned to the department, even if the person never receives assistance![54]

A local community service centre or a social service centre must accept the registration of any person who:

(a) authorizes the centre to obtain from any establishment the pertinent information held by such establishment relative to the person;

(b) furnishes any information or document required relating to the purpose of his application for services.

These practices seem to allow for some encroachment on a person's privacy in return for his right to receive services. Here again, we are not saying that the gathering of such information in itself encroaches on privacy, but we wonder whether all the information requested is absolutely necessary for the application of the Act. If the answer to this question is yes, this information should be kept in such a way that the person concerned is not identified.

3.3.3 Content of records

The content of the records kept by the hospital centres is subject to different regulations than those applying in the case of the other establishments. In the case of the hospital centres there are 19 items which may be included in the record, ranging from a physical examination to any document required by the internal regulations of the hospital centre.[56] The draft regulation would add another item: the summary of the therapeutic interview recordings.[57]

The records of the other establishments can contain 13 items, including "a note on every consultation, even by telephone, in any way relevant to the evolution of the physical, mental or social condition of the person, or to the normal evolution of a program of care or services".[58] The draft regulation would add the summary of the therapeutic interview recordings.[59]

In a meeting with the Association des centres de services sociaux (association of social service centres) and later in an interview with a senior adviser from the Greater Montreal Social Services Centre (Centre des services sociaux du Montréal métropolitain), it was emphasized that a problem may arise in these records with regard to confidentiality.[60] A recipient may consult several professionals in the same establishment. For example, a recipient may take advantage of the expertise of both a psychologist and a social worker. A recipient may reveal information to a psychologist which he would not wish to disclose to the social worker. It seems essential to us that in such a case the different types of record be kept separate in order to ensure that their confidentiality is respected.

We should mention here certain problems concerning the names that may be used in a record. For example, in the case of a request for an abortion and a certificate issued by the committee responsible for making the decision, the draft regulation obliges the recipient to state the surname, given names and date of birth of her spouse.[61] Firstly, it cannot be assumed that the woman has a spouse. Secondly, even if there were one, it may be asked why the form requires that his name and date of birth appear in three records: that of the doctor, that of the committee which made the decision in favour of the abortion and that of the recipient. There is no justification for the spouse's name appearing in any record whatever.

3.4 Hospital Insurance Act[62]

This Act provides expressly for protection of privacy. Section 11 states:

> "The Minister and the officers and employees charged with the carrying out of this act shall not reveal, except to the extent prescribed by an agreement made under section 5, any information obtained in the carrying out of this act and they cannot be compelled to do so before any court of civil jurisdiction."

This implies an extensive protection for officers or employees who wish to respect the confidentiality of information. However, the second paragraph of the same section provides:

> "They shall not be personally responsible for anything done in good faith in the performance of their duties."

This provision, as we have already seen, may make it more difficult for the recipients to exercise their rights. One section might specify, as is the case in the Social Aid Act, that officers can be held liable for the disclosure of information concerning the private lives of the recipients.

3.4.1 Content of records

The forms that must be completed require that the following information be given:[63] mother's maiden name, wife's maiden name, nationality, religion, baptism, place of birth and date of birth, sex, civil status, name of employer, occupation and father or husband's employer.

Once again, the question is whether such information is necessary for the application of the Act. If so, we suggest that the information be kept in such a manner that it will not be used to disclose unnecessarily the identity of the person concerned.

3.5 Health Insurance Act[64] and Health Insurance Board Act[65]

Section 50 of the Health Insurance Act ensures that information obtained for the carrying out of that Act will not be revealed. An exception to this general rule is made for the disclosure of information to certain boards (s 52), for purposes of inquiry (s 53) and for statistical purposes (s 54). We wish to cite the section concerning statistics because of the protection it gives to privacy, which is not found in other Acts.

> "Section 50 shall not prohibit the disclosure for statistical purposes of information obtained for the carrying out of this act, provided that it cannot be connected with individual persons."

We feel that this point should be included in all Acts authorizing disclosure of information concerning the private lives of beneficiaries.

The exceptions provided for in ss 52 and 53 seem reasonable to us. An obligation to inform the beneficiary when information about him is disclosed could be added to such provisions in all Acts permitting the exchange of information.

The Health Insurance Board Act provides immunity for all members, officials and employees of the Board. We do not believe that this immunity should mean that no offence would be committed by a person who revealed information obtained in the performance of his duties without being authorized to do so.

3.6 Public Health Protection Act[66]

First of all, there is no section in this Act that gives general protection to personal privacy.[67] Protection is ensured in certain specific cases such as venereal disease (s 7) and information obtained by an investigator in the performance of his duties (s 48).

In view of all the personal data that people are obliged to provide under this Act, a general provision to protect confidentiality is essential.

It should also be pointed out here that s 3 of the Act confers a wide discretion on the Minister by giving him the right to make statistical data available to scientific and government bodies "in the manner that he considers expedient". It will be recalled that the Health Insurance Act specifies that statistical information may be disclosed "provided that it cannot be connected with individual persons". This model seems to ensure more effective protection of privacy.

3.6.1 Information required on forms

In the case of births (stillborn children), marriages and deaths, all persons must make these statements on forms which, after they are completed and signed, must be mailed to the Population Register, Department of Social Affairs.[68] The information disclosed includes: age, birthplace, mother tongue, name of mother and father, language spoken at home, civil status, number of children and previous pregnancies (stillborn infants) and number of years of education.

Once again, there is no suggestion that the collection of this information is in itself a violation of the right to privacy. We simply wonder whether all the information is necessary, and if it is, [we wish] to ensure that the identity of the person cannot be improperly revealed from this information.

3.7 Québec Pension Plan[69] and Supplemental Pension Plans Act[70]

As has already been mentioned, the Québec Pension Plan (s 26a) and the Supplemental Pension Plans Act (s 53) give immunity for action taken in good faith in the performance of duties. Without criticizing the existence of this immunity, we believe that an offence should be provided for in the case of employees who disclose information obtained in the carrying out of the Act without being authorized to do so.

Section 214 of the Québec Pension Plan specifies that all information concerning a contributor or beneficiary obtained under the Act is privileged. Section 216 adds:

> "Notwithstanding any other act, no person in the employ of the Board or of the government of the Province shall be required, in any legal proceedings, to give evidence relating to any information that is privileged under section 214, or to produce any writing containing such information."

There is no such protection in the Supplemental Pension Plans Act. What are the cases in which the information may be disclosed?

According to s 214:

> "Any such information may be made available to the Department of Revenue where it is necessary to do so for the purposes of the administration of this act" and "any such information, except where it refers to the earnings and contributions of a contributor, may also be made available to the Department of Social Affairs where it is necessary to do so for the administration of the acts for which it is responsible."

The Board may obtain any information from any department or government authority (s 215), and may make agreements with any other government for the exchange of information (ss 218 and 221). The Board may, with the approval of the Lieutenant-Governor in Council, provide the government of Canada or of another province with any information obtained under this Act (s 220), and the same is true for an agency under the jurisdiction of the government of Québec, except, in the latter case, for information respecting the earnings and contributions of contributors (s 220a).

The problem is not with the fact that information may be disclosed. It must be admitted that this exchange between governments may be necessary. The question is, however, why the person concerned is not notified. In addition, when exchanges are made for statistical purposes we would ask that the persons not be identified. When the exchange concerns specific persons, however, it would seem that these persons should be notified of the exchange provided that no criminal investigation is involved.

3.8 Québec Family Allowance Plan[71]

Subject to s 71, which authorizes the transmission of information to the Minister of Revenue for the application of a fiscal law, the information obtained for the carrying out of this Act must remain confidential (s 21). As in other Acts, however, there are several exceptions to this general rule. The information may be disclosed for statistical purposes, but privacy is better protected in this Act by the addition of the words ". . .provided that it cannot be connected with any particular person" (s 22). The general rule does not prevent the Board from giving information to the Minister of Social Affairs. With the authorization of the Lieutenant-Governor, the Board may furnish information obtained under this Act to any Minister or agency under the jurisdiction of the government of Québec (s 22). In addition, with the authorization of the Lieutenant-Governor, the Board may make agreements to exchange information with another government (s 23).

Once again, we ask that people be notified of the exchange of information concerning them.

3.9 Social Aid Act[72]

This Act is the first to explicitly exclude immunity for disclosing information in good faith. Section 52 specifies that every officer, employee or trustee, as well as every person participating in the carrying out of this Act, who reveals information without being authorized to do so shall be guilty of an offence and liable, on summary proceeding, to a fine of not less than $100.00 nor more than $1,000.00 and to the payment of costs.

There seems to be no reason for leaving other Acts without similar "teeth" to protect the right to privacy. Despite this protection, however, the Minister may, notwithstanding any other Act, obtain from any government department or body any information on payments to any person who receives or applies for social aid services (s 51).

Section 49 states:

> "With the authorization of the Lieutenant-Governor in Council, the Minister may enter into any agreement with the Government of Canada or any body thereof, and with any other government, body or person, in accordance with the interests and rights of the province of Québec, to facilitate the carrying out of this Act."

At first glance these sections do not appear to pose any problems. However, examination of form AS 19, which all applicants must sign before receiving social aid benefits, shows the harmful effects concealed by these provisions. The form requires the applicant to agree that for a period of one year the Department of Social Affairs may obtain information concerning his income, goods, rights and obligations in relation to many organizations, including legal aid offices and the US Social Security Administration, without notifying the applicant. A complaint was brought before the Social Affairs Commission on this subject on September 28, 1977, arguing that this form infringed on the right to privacy. The decision has not yet been handed down.

4. CASES IN WHICH DISCRETION COULD LEAD TO DENIAL OF JUSTICE

4.1 Introduction

In this section we would like to focus on the use of the word "may" in certain Acts. There is no doubt that in the exercise of their powers administrative or quasi-judicial bodies should have a certain amount of discretion, as in assessing evidence, for example. We would like to recall here some of the remarks made by the Commission des droits de la personne in its submission on Bill 67 (Automobile Insurance Act).[73]

> "We believe, however, that in order to ensure the right to equal protection under the law as well as the right to an impartial hearing of the case, the discretionary powers granted to quasi-judicial bodies should not exceed what is necessary for their operation.
>
> In other words it would be desirable, for the protection and information of citizens coming before the Board, that their rights be clearly defined in the Act, in so far as this is possible.
>
> In this regard, the use of "may" in statutes has given rise to all sorts of controversies and criticism. We believe that the wording of Bill 67 could be improved by indicating wherever possible that specific persons have specific rights under specific conditions, conditions which would be clearly stated."

4.2 Pension Plan and regulations

Many examples of this discretion may be found in the Québec Pension Plan.[74]

Section 105 states that:

> "The Board may decide that a person shall be deemed to be . . . the surviving spouse of a contributor . . . on satisfactory proof that for a number of years immediately before the death of such contributor:
>
> (a) he had been residing with such contributor,
>
> (b) he had been maintained wholly or substantially by the contributor,
>
> (c) he had been publicly represented by the contributor as his spouse, and
>
> (d) at the time of the death of the contributor neither he nor the contributor was married to any other person, or the number of years in such situation was at least seven.
>
> Subparagraph b of the first paragraph does not apply in the case where the death of the contributor occurred after 19 July 1977."

It might be asked whether the word "may" is necessary when all these criteria are already stated in the Act.

Some recent decisions[75] suggest that the discretion should not depend simply on the will of the administrator.

In considering the discretion granted to the Board in s 105, the Social Affairs Commission said:[76]

> "This discretion should be exercised, as we have already mentioned, with a view to balancing "collective interests and individual rights". In order to do this, respondent should exercise his discretion according to the intention expressed by the legislator: in this case, the effort to find the "real spouse" of the contributor, whether or not they were legally married. It is for this reason that the legislator adopted the difficult conditions of s 105 by means of a special provision, thereby modifying the ordinary law, although this is not stated."

In this case the Pension Plan refused to pay a surviving spouse's pension to a woman who had lived with the deceased for thirty years, even though the legal wife had renounced the benefit. The Board refused to pay benefits to the second "spouse" solely in the exercise of its discretion. The Commission, however, refused to accept this interpretation of discretion, and this leads us to wish that the legislation on this matter were clearer.

Section 106 of the Act states:

> "The Board may decide that a person to whom section 105 would apply, but for his marriage to the contributor after such time as he commenced being represented as the spouse of the contributor, shall be deemed to have become married to the contributor at such time."

Once again, this section uses the word "may" when the conditions specified imply that the Board should have no discretion.

In the same vein, s 108 states that the Board "may" issue a certificate declaring that, for the purposes of the Act, a person is deemed to have died under circumstances that raise a presumption that he is dead. Again we wonder why, once the facts are proved, it is necessary to give this discretion to the Board.

The regulations[77] contain further examples of the discretionary power.

Section 3.13 states:

> "At the discretion of the Board, any benefit that remains unpaid at the death of the beneficiary may be paid to any person as it may be considered just and reasonable."

This provision seems to concern a case where discretion is necessary. It nevertheless seems to us that there is no reason to add a "may" when the criterion of "just and reasonable" is already available. Once the criteria are established, the Board should be obliged to pay benefits.

Section 3.18 states

> "The Board may suspend payment of any benefit during an investigation as to the eligibility of the beneficiary or pending the determination of his employment earnings".

It should be pointed out that s 226(e) of the Act empowers the Board to make regulations regarding the suspension of payment of a benefit during an investigation as to the eligibility of the beneficiary or pending the determination of his employment earnings for a given period.

At this point, however, we should recall s 23 of the Charter, which states:

> "Every person has a right to a full and equal, public and fair hearing by an independent and impartial

> tribunal, for the determination of his rights and obligations or of the merits of any charge brought against him."

Once the Board has established that a person is eligible to receive benefits, this right should not be withdrawn without proof. This principle is recognized in s 2.06 of the regulations made under the Social Aid Act.[78]

> "It is the applicant's responsibility to establish his right to aid. When such right has been acknowledged in his respect, unless stipulated otherwise, it is the Minister's responsibility to establish that it has ceased in accordance with his right of requiring supporting documents."

It is understood that if the evidence shows that the person was not eligible at the time of the investigation, he will be obliged to reimburse the government for the benefits to which he was not entitled.

Section 5.01 states:

> Where a death benefit is less than $1,000, the Board may, if it deems it appropriate, pay all or part of such benefit to any individual upon receipt of evidence satisfactory to the Board that such individual has paid all or part of the costs of the deceased contributor's last illness or burial.

Once again we have a regulation in which two people in exactly the same situation could be treated differently. Criteria are established and yet the discretion is decisive.

Finally, section 6.07 states:

> "The Board may decide that the child and the surviving spouse or the child and the contributor do not cease or have not ceased to live together where, by reason of illness or any other reason acceptable to the Board, they are or were living apart."

In this case it is understandable that a certain amount of discretion is required, but once it is proved that there is an acceptable reason, one wonders whether the "may" is necessary.

4.3 Regulation respecting Family Allowances

The Regulation respecting Québec Family Allowances contains a few examples of a discretionary power that could be prejudicial to the rights of children.[79]

> ". . . where the person to whom an allowance is paid dies, the Board may suspend such allowance or designate, in the child's best interest, an administrator to whom the allowance must be temporarily paid afterwards."

This power enables the Board to discontinue payments even when the child continues to need them. It would be preferable for the Board to be obliged to find an administrator to whom the allowance would be paid in the best interests of the child. This administrator could be the child's guardian.

In addition, ss 6.01 and 6.02 give the Board the right to suspend or not suspend the allowance during a period of investigation, simply, it would seem, on the basis of the administrator's discretion. This power comes from s 25(f) of the Act, which empowers the Lieutenant-Governor to make regulations governing such a suspension. Our comments on the equivalent section in the regulations made under the Québec Pension Plan must be repeated here. This section could violate the principles of s 23 of the Charter by depriving a person of his rights before proof is established.

4.4 Social Affairs Commission Act[80]

The Social Affairs Commission Act establishes the system of appeals, requests and applications for all Acts administered by the Department. The Rules of Proof, Procedure and Practice of the Social Affairs Commission state that:[81]

> "The Commission is empowered to accept the mode of proof it believes most suitable to better serve the ends of justice."

In addition, s 38[34] specifies:

> "No proceeding under these rules shall be considered to be null or invalidated by any non-substantive or procedural irregularity."

It is true that the intention of this provision is to remove the judicial incubus from a system that can certainly become rather clumsy, and to make it more flexible. This highly praiseworthy objective must not, however, be attained by disregarding the principles of natural justice.

As these sections indicate, the Commission may accept as proof what "it believes most suitable to better serve the ends of justice". If there is any irregularity in this judgment, however, the beneficiary has no recourse.

It is conceivable that hearsay evidence might be admitted, and this could be prejudicial to the beneficiaries. It should be added here that s 22a[82] gives the Commission the right to review its decisions for cause.

4.5 Mental Patients Protection Act

In our opinion there are fundamental problems with this Act. The approach, the context and the framework of the Act allow persons to be confined without an opportunity to defend themselves before it is too late. For this reason, the Commission des droits de la personne intends to study the Act in depth. In this document, however, we wish to raise certain important problems concerning, in particular, the audi alteram partem rule and the principles of natural justice.

4.5.1 Loss of liberty without the protection of the audi alteram partem rule

Section 7 of the Act specifies that:

> "The psychiatric clinical examination must as far as possible be made within twenty-four hours after request therefor and be followed by a written report signed by the person who made the examination and stating whether or not close treatment is necessary."

If the psychiatrist decides that close treatment would be advisable, but the person refuses to co-operate, s 16 of the Act permits the following action:

> "When the motion is intended to place a person under close treatment following a report contemplated in section 7 concluding to that effect, the judge may make the order on seeing the report after having ascertained that all the requirements of this act have been complied with but without deciding on the mental condition of the person who is the object of such report."

It may thus be seen that a person could be ordered confined with no right to defend himself or to present evidence to rebut the testimony of the applicant's psychiatrists. Without wishing to make too much of an analogy with criminal law, it could be said that the situation is comparable to that of a judge sending an accused person to prison on the testimony of the police without giving him a chance to defend himself, that is to present opposing evidence.

Section 20 states:

> "The order shall be served by the clerk of the court on the Board which is thereupon entrusted with reviewing the decision on the merits."

It may thus be seen that a person may be deprived of his freedom, against his will, on the opinion of two persons. He is given a "right of appeal" against a decision that he never had the right to contest from the outset. These sections give the government the right to confine a person and deprive him of his most fundamental freedoms without considering the minimal criteria of due process. The procedure becomes even more intolerable when one considers the recent literature suggesting that psychiatrists are no better than anyone else at predicting whether a person will be dangerous.[83]

We wish to emphasize also that s 8 requires the psychiatrist to give an opinion on whether the person is capable of administering his property. Under s 10, this opinion leads to the application of s 6 of the Public Curatorship Act,[84] under which the person loses the right to administer his property. We submit that these two actions - depriving a person of fundamental freedoms and of the administration of his property - on the opinion of two psychiatrists, contravenes s 23 of the Charter, which states:

> "Every person has a right to a full and equal, public and fair hearing by an independent and impartial tribunal, for the determination of his rights and obligations or of the merits of any charge brought against him."

We should also draw attention here to s 34 of the Charter, which proclaims:

> "Every person has a right to be represented by an advocate or to be assisted by one before any tribunal."

4.5.2 Possible discretion in the use of the expression "might endanger his health or security or the health or security of others"

The criterion used in ss 2 and 11 of the Act for having a person undergo psychiatric examination or having him admitted to close treatment is that he "might endanger his own health or security or the health or security of others". It should be noted, however, that these sections are extremely vague in their classification of persons who may be placed under close treatment.

Thus, if this section were applied strictly any smoker or holder of a driver's licence "might endanger his own health or security or the health or security of others". Obviously, psychiatrists do not apply the criteria in this way, but the fact remains that the Act gives no indication of the criteria that should be used. The Act contains no definition of the concept of danger, yet the application of the Act depends on this concept. Consequently, the absence of any clear definition in the Act of what might be regarded as dangerous constitutes an important omission.

There are thus good reasons to believe that no one should be placed under close treatment on the basis of an unreliable criterion regarding the type or extent of danger and the period during which the danger may be supposed to exist. Furthermore, it is essential to consider the fact that recent studies already cited demonstrate statistically that psychiatrists are no more able to make these predictions than other people.[85]

5. RECOMMENDATIONS

5.1 General recommendations

5.1.1 Forms related to all the Acts administered by the Department of Social Affairs should be reviewed in order to eliminate, where appropriate, information that is not necessary and that could be used for purposes of discrimination on the basis of ethnic or national origin, sex, civil status or social condition. If these data are necessary for statistical purposes, care should be taken to ensure that the persons cannot be identified.

5.1.2 All the Acts should make it an offence for any official, without proper authorization, to reveal information obtained in the carrying out of the Act (using s 52 of the Social Aid Act as a model).

5.1.3 All persons on whom records must be kept under any of the Acts administered by the Department of Social Affairs should have the right to consult those files as provided in s 7 of the Act respecting health services and social services, which could be used as a model.

5.1.4 All persons should have the right to submit written comments that would be included in the record; a similar right is granted by s 45 of the Consumer Protection Act (SQ 1971, c 74).

5.1.5 In all cases where information from a record is sent to another department, government or service, the beneficiary should be informed of this exchange unless criminal proceedings are involved.

5.2 Social Affairs Commission Act

5.2.1 Section 25 of the regulation concerning the Rules of Proof, Procedure and Practice of the Social Affairs Commission should be amended to eliminate the possibility of hearsay evidence or any departure from the principles of natural justice.

5.3 Act respecting health services and social services

5.3.1 The grounds for discrimination listed in s 5 should be amended to make them consistent with those of the Charter. Specifically, civil status should be added and national extraction should be changed to "national origin". In addition the English translation of "moeurs" should be corrected to read "morals" instead of "customs".

5.3.2 Section 54b, which deprives a person of the right to be a member of the board of directors of an establishment if he has been convicted within the preceding five years of an offence or crime entailing up to three years imprisonment, must be amended. Such a deprivation of political rights could be required in good faith if a link were established between the criminal action and the position in question.

5.3.3 Criteria should be established for disclosure of records to a professional by a director (s 7).

5.3.4 Provision must be made for safeguarding the confidentiality of a person's identity when records are released for study, teaching or research (s 7).

5.3.5 We should question whether a patient should be deprived of the right to examine his record even where this "would be seriously prejudicial" to his health (s 7).

5.3.6 The right of heirs, legal representatives and beneficiaries of insurance policies to examine certain records should be limited to those records that they need to consult in order to exercise their rights (s 7a).

5.3.7 Section 34 of the draft regulation should be amended. In view of the confidential nature of the record and the fact that a person might consult several professionals in the same establishment, summaries of therapy sessions should be kept in records to which only the professionals concerned and those who succeed them would have access.

5.3.8 In s 25 of the draft regulation, there is no reason to require the name of the father or the husband in case of abortion. Consequently, this information should not appear either on the request for abortion or in the medical record or in the record of the committee that made the decision.

5.4 Health Insurance Act

5.4.1 The equality of the spouses must be recognized in ss 1.01(e) and 3.02 of the regulations by stipulating that both spouses are responsible persons and that the term "dependant" applies only to an unmarried person under eighteen years of age living with the beneficiaries.

5.4.2 It would be better to have only the maiden name of a married woman on the health insurance card, unless the woman made a request to the contrary.

5.5 Mental Patients Protection Act

Because of the fundamental problems found in this Act, we must propose an in-depth revision rather than a mere amendment. The approach, the context and the framework of an Act that allows people to be confined without an opportunity to defend themselves before it is too late must be examined. The fact that this Act contains discretionary powers that could lead to abuses justifies the Commission in doing in-depth research to examine the entire philosophy underlying the Act, which is based on the infallibility of psychiatrists and does not entirely observe the principles of natural justice, especially the audi alteram partem rule and the rule of due process.

Here we would simply point out that the Act forces psychiatrists to play an impossible role by imposing on them the triple burden of being physician, judge and jailer at the same time.

5.6. Public Health Protection Act

5.6.1 In order to comply with s 47 of the Charter, the expression "paternal authority" should be changed to "parental authority" (s 36).

5.6.2 Sections 7.014 and 9.202 of the regulations, which prohibit the issuing of permits in case of certain offences or of bankruptcy, must be reviewed to ensure that these criteria are required in good faith and that there is a relationship between the criteria and the permit applied for.

5.6.3 It should be specified in s 3, which gives the Department the right to make statistical data available in the manner that it considers expedient, that all data should be disclosed in such a way that the person concerned cannot be identified.

5.7 Québec Pension Plan

5.7.1 In s 105, which states that "The Board may decide that the person shall be deemed to be . . . the surviving spouse", there is no justification for saying "may decide". It would suffice to say that a person is deemed to be the actual spouse upon proof that conditions required have been met.

5.7.2 In s 106, the same argument applies and there is no justification for the "may".

5.7.3 It seems to us that in s 3.13 of the regulations, which states that any benefit that remains unpaid may be paid to any person as may be considered just and reasonable in the discretion of the Board, there is no reason to add "may" when the criterion of "just and reasonable" has already been specified. Once the criteria are established, the Board should be obliged to pay the benefits.

5.7.4 Section 3.18 of the regulations, which enables the Board to suspend payment during an investigation, should be repealed; this regulation exists under s 226(e) of the Act. This provision contravenes s 23 of the Charter, which prohibits depriving a person of a right without an impartial public hearing by an independent tribunal, a principle that is applied in s 2.06 of the Regulation on Social Aid:

> "It is the applicant's responsibility to establish his right to aid. When such right has been acknowledged in his respect, unless stipulated otherwise, it is the Minister's responsibility to establish that it has ceased in accordance with his right of requiring supporting documents".

5.7.5 Section 5.01 enables the Board to pay funeral expenses upon presentation of satisfactory evidence, "if it deems it appropriate". This discretionary phrase should be eliminated: if a person has provided adequate proof, there is no reason to add a discretionary power.

5.8 Québec Family Allowances Plan

5.8.1 Section 5.05 of the regulations enables the Board to suspend an allowance where the person to whom it was granted dies. The Board should be obliged to find an administrator, such as the child's guardian, to whom the allowance would be paid in the best interests of the child.

5.8.2 Sections 6.01 and 6.02 of the regulations, which give the Board the right to suspend the allowance during an investigation, should be repealed. This power comes from s 25(f) of the Act, and is contrary to s 23 of the Charter.

5.9 Social Aid Act

5.9.1 The grounds for discrimination contained in s 18 should be revised to make them consistent with the Charter; more specifically, civil status should be added and "national extraction" could be changed to "national origin".

5.9.2 The restriction on benefits awarded to persons aged less than thirty years and capable of working, contained in s 3.07 of the regulations, should be eliminated. This section was recently held to be ultra vires and consequently it appears to contravene s 45 of the Charter, which ensures financial and social assistance, as provided by the law, guaranteeing a decent standard of living.

CONCLUSION

The rights stated in Articles Six, Seven, Eight and Nine of the International Covenant on Economic, Social and Cultural Rights are protected under Québec law.

This is indicated by the very number and scope of the statutes and regulations.

Beyond the number and the strict correspondence between international and national laws, it is of importance to be able to appreciate the quality of the rights recognized, their degree of respect of fundamental rights, which are themselves affirmed in our legislation.

Existing labour legislation will shortly be supplemented by an order regarding maternity leave and legislation on minimum employment standards. As a consequence, the rights of workers (especially those not unionized) will be clarified and afforded more complete protection.

With reference to the social legislation considered above as a whole, and pursuant to the recommendations issued by the (Commission des droits de la personne), the Minister of Social Affairs of Québec has requested a group of experts to examine how the proposed changes will be put into effect.

In addition to its belief that a true respect for fundamental rights renders every law subject to improvement, the Human Rights Commission (Commission des droits de la personne du Québec) wishes to restate its intention of fulfilling the mandate conferred on it by law. To this end, the review of all legislation prior to promulgation of the Charter of Human Rights and Freedoms in 1976 is proceeding, together with review and analysis of all bills and regulations. In doing this the Commission is striving for not only compliance with the international standards, but the most complete respect for fundamental rights and freedoms.

FOOTNOTES

[1] Except the Youth Protection Act, RSQ 1964, c 220, the revision of which was under way with the tabling of Bill 24 assented to on December 16, 1977 (now SQ 1977, c 20), which was the subject of a separate study, and the Adoption Act, SQ 1969, c 64, which it seems will soon be the subject of a draft bill.

[2] We should mention here Article 2 of the International Covenant on Economic, Social and Cultural Rights, under which "each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures".

[3] See in this connection the submissions of the Commission on the draft regulation under the *Act respecting health services and social services* of June 1976, on s 42 of Bill 10, *Act respecting health services and social services* (now SQ 1977, c 48), and on Bill 9, *Act to secure the handicaped in the exercise of their rights* (now SQ 1978, c 7).

[4] *Act respecting health services and social services*, SQ 1971, c 48, s 5; *Social Aid Act*, SQ 1969, c 63. It is interesting to note that the word "moeurs" is translated by the word "customs" in the English version of the first Act and by "morals" in the second Act. The second translation seems preferable.

[5] SQ 1977, c 6, Bill 88, assented to on December 19, 1977.

[6] Regulation under the *Act respecting health services and social services*, OC 3322-72 of 8/11/72 (1972), OG II 10566 as amended, s 3.1.2.

[7] 02-06-76, 108 OG II 3272; s 16 amend s 3.1.2.

[8] Regulation under the *Public Health Protection Act*, OC 1444-74 of 17-04-74, (1976) 106 OG II 1827 as amended.

[9] *Ibid*, ss 1.101, 1.201, 1.301.

[10] Regulation No 1: Assignment of social insurance number, OC 2297 of 24-11-65, (1965) 97 OG II 6752, s 2.

[11] Regulation under the *Hospital Insurance Act*, OC 1291-73 of 11-04-73, (1973) 105 OG II 1313 as amended, Schedule D, form AH-101.

[12] *Supra*, note 4, s 48(V).

[13] Regulation No 1 of the *Québec Health Insurance Board*, respecting the *Health Insurance Act*, OC 2274 of 17.07.70, (1970) 102 OG II 4143 as amended, s 3.02.

[14] *Supra*, note 7, s 16 amend s 3.1.2.

[15] Supra, note 11.

[16] Ibid, form AH-101.

[17] SQ 1972, c 42 as amended, s 36.

[18] 1977, SQ, c 6, s 4, assented to on Nov 17, 1977.

[19] Replaced in 1977, by SQ 1977, c 48 s 4, assented to November 1977.

[20] L.Q. 1970, C.37.

[21] Supra, note 13, s 1.02. See also Regulations respecting the Health Insurance Act, OC 2274 of 17.07.70, (1970) 103 OG II 4157 as amended, s 1.01(2).

[22] Ibid, s 3.02.

[23] RSQ, 1964, c 216. This Act was replaced by the Act respecting health services and social services, ss 148 and 168, but the replacement has not yet come into effect. In an interview with Mr. Guy de Lorme, service co-ordinator for social affairs for the city of Montréal, the latter informed us that as of April 1977 there were only 300 people remaining in the province who were still receiving benefits under this Act, the Disabled Persons Assistance Act and the Blind Persons Allowances Act.

[24] Supra, note 4.

[25] Supra, note 6, s 1.2.5

[26] Ibid, s 1.2.13.

[27] See the Social Aid Act, SQ 1969, c 63, s 1(d). See also the Regulation respecting welfare payments made to the home, OC 912 of 11-6-62, s (d), Interpretation. The Public Charities Act was repealed by SQ 1971, s 48, ss 149 and 168, but its repeal has not yet come into effect. See supra, note 23.

[28] SQ 1965, c 24 as amended, s 105.

[29] 1977, Bill 42, s 2, assented to on July 19, 1977.

[30] See La condition sociale, published by the Research Divison, Commission des droits de la personne, September 8, 1977.

[31] Supra, note 11.

[32] Supra, note 7, s 16, amend s 3.1.2.

[33] Supra, note 8.

[34] Ibid, see ss 1.101, 1.201 and 1.301.

[35] Supra, note 8.

[36] Ibid, s 9.202. We might mention here that in the Canadian Human Rights Act (assented to on July 14, 1977) discrimination based on conviction for which a pardon has been granted is expressly prohibited.

[37] Emphasis added.

[38] Social Aid Regulation, OC 5581-75 of 17-12-75, (1975) 107 OG II 6455 as amended.

[39] Information obtained in a telephone interview with Mr. Claude Roy, co-ordinator of the Mouvement Action-chômage.

[40] SQ 1977, c 41, s 51, assented to on December 22, 1977.

[41] We should mention here a recent series of cases which have allowed social aid to be granted to strikers where this is necessary to ensure: (1) that they are not deprived of the means of subsistence; (2) that they are not in a situation which constitutes a danger to their health; or (3) that they are not in a situation that is likely to lead to total destitution: [1975] CAS 36; [1976] CAS 549.

[42] Vachon v Attorney General of the Province of Québec, No 450-05-001105-76, district of St-François. The Court of Appeal decided that the appropriate procedure had not been followed and that a writ of evocation rather than a nullity action should have been used. It therefore did not rule on the ultra vires issue: CA No 500-09-00753-77 2 (1978).

[43] RSQ 1964, c 163 as amended, s 11.

[44] SQ 1969, c 53 as amended, s 17.

[45] Supra, note 28, s 26(a).

[46] SQ 1965, c 25 as amended, s 53.

[47] SQ 1969, c 63 as amended.

[48] Supra, note 4.

[49] Supra, note 6. The definition of "professional" in the Act has been repealed, SQ 1974, c 42, s 1.

[50] SQ 1977, c 48, s 3, assented to on November 17, 1977.

[51] It is already provided in the Québec Pension Plan that a member may ask the Board for a statement of the unadjusted earnings credited to him. The Regulations specify that the request must be made in writing and may not be made more than once a year: Benefits Regulation, OC 2243 of 12-11-66, (1966) 38 OG II 6345 as amended, s 2.01.

[52] SQ 1971, c 74

[53] Supra, note 6, s 3.1.2.

[54] Supra, note 7, s 16 amend s 3.1.2.

[55] Supra, note 6, s 3.3.2.

[56] Ibid, s 3.5.2.

[57] Supra, note 7, s 34, amend s 3.5.2.

[58] Supra, note 6, s 3.5.4.

[59] Supra, note 7, s 37, amend s 3.5.

[60] Interview with Mrs Hélène Gaulin, May 18, 1977.

[61] Supra, note 7, s 25, amend s 3.2.3.2, Schedule.

[62] Supra, note 43.

[63] Supra, note 11, form AH-101.

[64] Supra, note 20.

[65] Supra, note 44.

[66] Supra, note 17.

[67] See, for example, s 50 of the Health Insurance Act.

[68] Supra, note 8, s 1.001.

[69] Supra, note 28.

[70] Supra, note 46.

[71] SQ 1973, c 36, as amended.

[72] Supra, note 27.

[73] Document dated November 2, 1977, pp 2 and 3.

[74] SQ 1965, c 24, as amended. It is interesting to note that the number of requests for review under the Pension Plan rose from 827 in 1974 to 1,056 in 1975 and 1,649 in 1976. The 1976 figure represents an increase of 56% over 1975 and 100% over 1974. One of the reasons given by the Board for this increase is the fact that since March 1975 a form requesting review has been sent to the applicant along with the decision whenever an application is refused. See the 1976 annual report, p 14. We naturally support this policy, which makes it easier for applicants to exercise their rights.

[75] See: [1976] CAS 380; [1976] CAS 441.

[76] Ibid, p 388.

[77] Regulation respecting benefits, OC 2243 dated 24-11-66, (1966) 98 OG II 6345, as amended.

[78] Supra, note 38.

[79] OC 1037-74 dated 20-3-74, (1974) 106 OG II 1565, s 5.05.

[80] SQ 1974, c 39, as amended.

[81] OC 5113-75 dated 19-11-75, (1975) 107 OG II 5855, s 25.

[82] Added in 1977, SQ 1977, c 49, s 6, assented to on July 19, 1977.

[83] See Ziskin, I, Coping with Psychiatric and Psychological Testimony, 2nd ed, 1975; Rosenhan, D L, "On Being Sane in Insane Places", (1973) 179 Science 250; Ennis, B and Litwack, I, "Psychiatry and the Presumption of Expertise: Flipping Coins in the Courtroom", (1974) 62 Cal L Rev 693; Corozza and Steadman, "The Failure of Psychiatric Prediction of Dangerousness: Clear and Convincing Evidence", (1976) 29 Rutgers Law Rev 1084.

[84] SQ 1971, c 81.

[85] Supra, note 83.

9. SASKATCHEWAN

INTRODUCTORY

The Government of Saskatchewan is continuing to review Saskatchewan legislation to ensure that it is in compliance with the International Covenant on Economic, Social and Cultural Rights.

ARTICLE 1

The Province of Saskatchewan subscribes to the principles of self-determination and to control by the people of Saskatchewan of the natural resources of the Province. In a number of areas, particularly energy and potash, it has purchased resources from private owners to ensure provincial control.

ARTICLE 2

The Saskatchewan Human Rights Code, which came into force on August 7, 1979, enshrines the enjoyment of certain rights without discrimination because of the race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin of any person. This Act states, in section 3, that its objects are:

> "(a) to promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family; and
>
> (b) to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination."

In sections 4, 5, 6, 7 and 8 of the Code, certain fundamental rights are protected including the rights of freedom of conscience, opinion and belief and freedom of religious association, teaching, practice and worship, freedom of expression, peaceable assembly and association, freedom from arbitrary arrest or detention, free elections. Other sections of the code provide for the right to engage in any occupation, business or enterprise, ownership of property, membership in professional and trade associations, education, housing, the right to use any hotel, restaurant, theatre or other place to which the public is customarily admitted, and prohibit discrimination in employment or by a trade union. This statute applies to the Crown and servants or agents of the Crown and takes precedence over every other law of Saskatchewan.

The remedies available to an aggrieved person who has been discriminated against are many and varied. Anyone contravening this statute is guilty of an offence and subject to prosecution. An injunction may be obtained enjoining an offender from continuing an offence.

In practice, however, the most effective remedy for violations of human rights has been the work of the Saskatchewan Human Rights Commission. The Commission has the statutory duty to forward the principle that every person is free and equal in dignity and rights; to promote understanding of, acceptance of, and compliance with human rights legislation; to develop and conduct educational programs designed to eliminate discriminatory practices; to disseminate information and promote understanding of the legal rights of residents of the province; to further the principle of equality of opportunities and equality in the exercise of legal rights; to conduct research; and to forward the principle that cultural diversity is a basic human right and a fundamental human value. The Commission investigates complaints of infringements of rights, and endeavours to effect a settlement. If the Commission is unable to effect a settlement, it may direct a formal inquiry which can subsequently order compliance with the legislation and compensation.

Between November, 1972, when the Commission was established, and March, 1977, the Commission received 690 formal complaints plus numerous miscellaneous inquiries. Of the formal complaints, one-half alleged discrimination based on sex, 38% on race or colour, 7% on nationality, 3% on religion, and the rest on other fundamental freedoms violations. Of these, 97% were settled by the Commission to the satisfaction of the parties involved, and 20 complaints proceeded to a formal inquiry.

An aggrieved person whose complaint does not fall under the jurisdiction of the Saskatchewan Human Rights Commission may complain to the Ombudsman under the provision of The Ombudsman Act 1972, if the alleged violation of a right was committed by a governmental agency or employee of same. The grounds of jurisdiction of the Ombudsman are wider than those of the Human Rights Commission: he may investigate, hold hearings, and make recommendations and a public report to the legislature where a decision, recommendation, act or omission is "contrary to law", "unreasonable, unjust, oppressive or improperly discriminatory", "based in whole or in part on a mistake of law or fact", or "wrong". Prisoners, hospital inmates, and anyone in the custody of another have the right of confidential communication with the Ombudsman. However, the Ombudsman cannot investigate the decison or act of the Legislative Assembly, the Cabinet, a Court, an arbitrator, a Crown solicitor, or a deputy minister.

ARTICLE 3

The Saskatchewan human rights legislation mentioned previously prohibits discrimination based on sex. A number of other measures were adopted during recent years to eliminate discrimination between men and women. Some of those measures will be outlined below as appropriate.

ARTICLE 6: THE RIGHT TO WORK

B. (1) Access to employment

The province of Saskatchewan recognizes the right to work, which includes the right of everyone to the opportunity to gain his/her living by work which he/she freely chooses or accepts and has taken appropriate steps to safeguard this right.

The Saskatchewan Human Rights Code guarantees that workers shall not be discriminated against in regard to hiring, firing or in the terms or conditions of their employment because of their race, religion, religious creed, colour, sex, marital status, age, physical disability, nationality, ancestry or place of origin. No employment agency can discriminate in placing people in employment and no trade union can discriminate against a person in seeking membership in the union or against any of its members.

Section 16 of the Code states:

> "(1) No employer shall refuse to employ or to continue to employ or otherwise discriminate against any person or class of persons with respect to employment, or any term or condition of employment, because of his or their race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin.
>
> (2) No employment agency shall discriminate against any person or class of persons because of his or their race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin in receiving, classifying, disposing of or otherwise acting upon applications for its service or in referring an applicant or applicants to an employer or anyone acting on an employer's behalf."

Section 17 of the Code states:

> "No trade union shall exclude any person from full membership or expel, suspend or otherwise discriminate against any of its members, or discriminate against any person in regard to employment by any employer, because of the race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin of that person or member.

Section 9 of the Code states:

> "Every person and every class of persons shall enjoy the right to engage in and carry on any occupation, business or enterprise under the law without discrimination because of his or their race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry, or place of origin."

Section 45 of the Code states -

> "No person shall:
>
> a) refuse to employ or to continue to employ any person;
>
> b) threaten to dismiss or to penalize in any other way any person with respect to his employment or any term, condition or privilege thereof;
>
> c) discriminate against any person with respect to his employment or any term, condition or privilege thereof; or
>
> d) intimidate, retaliate against, coerce or impose any pecuniary or other penalty, loss or other penalty, loss or disadvantage upon any person;
>
> on the grounds that the person:
>
> e) has made or may make a complaint under the Act;
>
> f) has made or may make a disclosure concerning any matter complained of;
>
> g) has testified or may testify in a proceeding under this Act; or
>
> h) has participated or may participate in any other way in a proceeding under this Act."

Section 47 of the Code allows for affirmative action programs in the areas of employment, services, facilities, accommodation and education to

> "prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be or are based on or related to the race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin of members of that group."

Youth Employment

The employment of young people is restricted by several different pieces of legislation.

Under Section 75 of The Family Services Act, 1973, S.S. 1973, c. 38, no person shall employ anyone less than 16 years old at any time or place where the nature of the work is unsuitable or where there is no provision for their proper care and treatment. Anyone who does so is liable on summary conviction to a fine not exceeding two-hundred dollars or imprisonment for up to thirty days.

Section 148 of The Education Act, 1978, S.S. 1978, c. 17, provides that no person under the age of 16 years who has not a valid excuse under this Act shall be employed by anyone during school hours. Anyone doing so is liable on conviction to a fine not exceeding fifty dollars.

Under Section 177 of The Urban Municipality Act, 1970, S.S. 1970, c. 78, as amended by S.S. 1971, c. 63 and by S.S. 1971 (2nd Session), c. 11, councils may make bylaws respecting the age at which and the conditions under which a minor may be permitted to enter or be employed in certain places of amusement.

Under the Minimum Wage Board Order Number Three (1977), the minimum age at which persons may be employed in any educational institution, hospital, nursing home or restaurant is sixteen years.

Under The Radiation Health and Safety Act, R.S.S. 1965*, c. 262 as amended by S.S. 1970, c. 52, by S.S. 1971, c. 42 and by S.S. 1973, c. 82, persons under 18 years of age may not be employed in occupations which require them to be regularly exposed to ionizing radiation from radiation equipment, usually x-rays.

B. (2) "Policies and techniques to achieve steady economic, social and cultural development and full and productive employment..."

The Province of Saskatchewan has taken steps to achieve steady economic, social and cultural development and full productive employment. Some of these efforts are described below.

In 1974, the provincial government entered into a ten-year General Development Agreement with the federal government to facilitate joint cooperation in initiatives for the economic and socio-economic development of Saskatchewan. General description of this type of agreement was made in the federal part of this report. Areas of activity identified under this agreement in Saskatchewan include: Steel and metal-related industries; forestry development; agriculture and related industries; Saskatchewan Northlands, recreation and tourism; urban development; and, rural development.

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* The Revised Statutes of Saskatchewan, 1965 were recently revised. The new Revised Statutes of Saskatchewan, 1978 incorporate amendments to all Saskatchewan statutes up to 1978. They were published after this report was prepared.

A Special Rural Development Agreement was entered into in 1977 by the provincial and the federal governments. The Agreement involves special programs to assist rural residents, particularly those of Indian ancestry, to develop opportunities for improving their economic and socio-economic circumstances. The agreement is for a period of five years.

A program to assist small industries has been established by the government of Saskatchewan in 1978. Called "Small Industry Development Program" it has been established under The Industry Incentives Act, 1970.

Considering that small manufacturing companies have difficulty in qualifying for financial assistance otherwise available, it is the intention of this program to provide financial assistance through forgivable loans to encourage the establishment of new small manufacturing enterprises or the expansion of existing operations. Such forgivable loans vary with location, recognizing that financing is often difficult to obtain in rural areas, and that manufacturing operations in smaller centres have some operational disadvantages. A budget of $401,500 was allocated to this program for the fiscal year 1978-79.

Employment Opportunities Program

In 1978, by Order in Council 1019/78, the government of Saskatchewan established an "Employment Opportunities Program" as Regulations under The Industry and Commerce Development Act, 1972. The purpose of the Program is to provide financial assistance in the determination, creation, or preservation of employment for eligible employees.

Under this program projects which:

(i) provide employment to one or more eligible employees,
(ii) provide a service which contributes to the employment of eligible employees,

can receive financial assistance from the government. Such financial assistance, not to exceed $30,000 for any one project, may be granted for various components of the project, such as evaluation costs, capital costs, operation, management, special facilities to be used by eligible employees, compensation for differential between normally acceptable and actual productivity of an eligible employee, training of eligible employees and other costs as may be required in connection with the employment of eligible employees.

Under the regulations "eligible employees" means an individual who through no choice of his own is experiencing difficulty maintaining regular employment and adequate earnings because of:

(i) a lack of marketable skills or life skills;
(ii) social, racial, cultural, or locational barriers;
(iii) physical, mental, or other handicaps.

Employment Support Program

The Employment Support Program operated by the Department of Social Services allows groups of people receiving social assistance to perform beneficial work in their community by providing monetary grants. The grants run for a period of 20 weeks and can start any time during the year.

Established in 1973, the Employment Support Program, during the year 1977-78, has provided funding and support to 75 groups employing 590 persons. The employment experience is a flexible method of increasing an individual's participation on community activities and serves as an incentive to seek other forms of employment or training skills after termination of the project.

Anyone receiving some form of social assistance from the Department of Social Service can apply for or work under a grant from that program.

Most grants are given to groups. People working together can often succeed where someone working alone might fail. Many project groups are formed by interested people just getting together.

Eligible clients who are single or married with no children are paid $2.50 per hour - $100 for a 40 hour week. If they have dependent children they are eligible for a salary supplement under the Family Income Plan that pays according to the number of children.

In addition to a salary, a grant includes money to pay the employer's share of Unemployment Insurance contributions. Also included is money for certain administrative expenses of the project.

Many types of community or self improvement projects are considered. The following is a list of some successful projects:

- child care centres
- market gardens
- welfare rights centres
- home repair projects
- handicraft production
- employment centres
- human rights projects
- drop-in centres
- equipment for the handicapped
- senior citizen services
- home construction crews
- ceramic workshop
- local park or community cleanup
- recreation centres
- halfway home for alcoholics
- single parents programs

B. (3) "Organization of the employment market..."

Saskatchewan has established certain internal manpower planning and analysis activities. Although this does not include an employment service as such, a new Manpower Division of the Department of Labour is responsible for carrying on continuous labour market analysis and for monitoring and evaluating current and proposed manpower programs in the province. The Division also provides liaison among the many departments and agencies (both federal and provincial) which operate manpower programs and serves as a secretariat to the Government's Manpower Planning Committee.

Employment services, operated by the federal government, are maintained in the province of Saskatchewan.

The province of Saskatchewan has adopted The Employment Agencies Act, R.S.S. 1965, c. 297 which is designed to control employment agencies. The Act prohibits any person, firm, corporation or association from collecting directly or indirectly any fee from any person seeking employment, and no fee may be charged for furnishing information regarding employers who are seeking workers and workers who are seeking employment.

Any town, village or rural municipality in which there is no government employment office is permitted to establish such an office, and to charge employers availing themselves of its service such fee as may be fixed by bylaw. The Minister must be informed of this and may want reports filed.

The provisions of the Act do not apply to agencies which are confined to supplying positions in connection with educational institutions.

B. (4) "Technical and vocational guidance and training programmes"

The Province of Saskatchewan offers manpower training programs in cooperation with the federal government as mentioned in the federal government part of this report.

With regard to apprenticeship and tradesmen's qualifications, the Province has enacted The Apprenticeship and Tradesmen's Qualification Act, R.S.S. 1965, c. 299, amended by c. 5, S.S. 1968. The purpose of this Act is to provide trade training and to examine and certify tradesmen with respect to their qualifications.

The Act is administered by the Department of Labour through the Apprenticeship and Standards Division.

A provincial trade advisory board is established in each designated trade except the plastering trade. Their function is to assist the Director of the Apprenticeship and Standards Division in the development and review of training manuals and trade examinations and by making recommendations concerning other matters of apprenticeship and tradesmen's qualifications.

Each board consists of at least five members plus at least two alternate members, all of whom are appointed by the Minister of Labour. The Director of the Apprenticeship and Standards Division, or an inspector authorized to represent him, is the chairman of the board. The other members represent equally the employers and employees engaged in the appropriate designated trade.

Local trade examining boards for each designated trade are established as necessary in various centres. They are made up of a provincial inspector and an equal number of employers' and employees' representatives.

The local boards interview each applicant to determine the time the applicant has worked at the particular trade and then they recommend to the Director of Apprenticeship and Standards Division the "time-credit" which should be allowed the applicant.

Designated trades. The Act provides for the designation of trades in which programs of trade training or examination are carried on. Trade training and examination are carried on in the following trades: boilermaker, bricklaying, carpentry, cooking, electrical, glassworker, heavy duty repair, industrial mechanical, lineman (electrical power), machinist, motor vehicle body repair, motor vehicle mechanics repair, painting and decorating, pipefitting, plumbing, radio and television electronics, refrigeration and air conditioning, roofer, sheet metal, tile setting, welding (electrical arc) and welding (gas).

Examinations only are carried on in the following trades: barbering, beauty culture and plastering.

Certificates of status. Every tradesman engaged in barbering, beauty culture, motor vehicle mechanics repair, carpentry and painting and decorating in Saskatchewan is required to hold a certificate of status in the trade. A tradesman engaged in plumbing, motor vehicle body repair, sheet metal or radio and television electronics must also hold a certificate of status only if she or he works at the trade in or within five miles of any Saskatchewan city. If they do not have the certificate then employers are prohibited from employing them. Outside of these areas these trades do not need a certificate, but many obtain one voluntarily.

Tradesmen working at the remaining trades are not required to hold certificates of status, but may obtain them on a voluntary basis.

Certificates of status, other than the beginner's can be obtained only through an examination. They are usually valid for two years and may be renewed without examination if properly applied for. A Journeyman Certificate is permanently valid.

Compulsory apprenticeship. Regulations under the Act require compulsory apprenticeship for three specified trades: electrical, sheet metal and plumbing.

People who began working at these trades on or after December 1, 1976, must become indentured as apprentices, although the regulations provide for a six-month probationary period before the formal apprenticeship documents must be completed.

The regulations stipulate that an employer who does not hold a journeyman's certificate in the specified trades cannot employ any new apprentice without first employing a journeyman. A ratio of one apprentice to one journeyman is not to be exceeded.

Employer's records. The Act requires that every employer engaged in the business of the designated trades record the following details regarding each tradesman employed by him: name, address, date of birth, trade, status at such time, the number of last certificate issued and its expiry date, the date of commencement of current employment, wage rate and hours of work. These records are to be made available for inspection by inspectors of the Apprenticeship and Standards Division.

Apprenticeship agreement. Every contract of apprenticeship states the length of the term, taking into account any experience already acquired at the trade. It sets forth minimum wages and the obligations of the apprentice and the employer to each other. It sets a three-month probationary period, during which time the agreement can be cancelled by either party. It also provides that the apprentice may be transferred to another employer and that the contract can be cancelled for just cause.

Training of apprentices. Trade training is provided free of charge at the Saskatchewan Technical Institute, Moose Jaw, and the Saskatchewan Institute of Applied Arts and Sciences, Saskatoon, or the Saskachewan Power Corporation Training Centre, Weyburn. Apprentices in the glassworker and tile setter trades are referred to Alberta technical institutes for training.

Apprenticeship allowances. As a means of encouraging apprentices to take advantage of training provided under the Act, living allowances are paid to those who attend trade courses. Varying rates of allowance are applicable depending on the marital status of the apprentice and whether he is living at home or away from home during the training.

The Trade Schools Regulation Act, R.S.S. 1965, c. 197, amended S.S. 1972, c. 136, provides for the regulation, registration and inspection of trade schools. It applies to all private schools in which trade courses and vocational training are offered.

The Human Resources Development Act, S.S. 1972, c. 54, provides for training on the job for disadvantaged people. The purpose of this program is to provide training opportunities that will help those persons experiencing difficulty in securing employment.

The human resources development program promotes the employment of disadvantaged persons in job training positions and negotiates with employers the rates of remuneration for such positions. Such rates must be related to the given position and in no case will the rate be below the minimum wage. An allowance will be provided to trainees during their training period.

Public servants may obtain permission to attend conferences, conventions, seminars and short courses of up to one week in duration where it is judged that it is directly related to their work and in the interest of the department concerned. Education leave with pay for a period of two months or more can also be approved by the Chairman of the Public Service Commission according to a schedule established in the Regulations Under the Public Service Act.

B. (5) "Protection against arbitrary termination of employment"

In a process of regular program and legislative review, the Saskatchewan Department of Labour has been giving consideration to the feasibility of amending The Labour Standards Act, 1977 to extend to workers the protection from unjust dismissal. Legislation from both the federal and Nova Scotia jurisdictions have been assessed with a view to their applicability in this province. Various measures already exist however which protect, to a certain extent, employees against unjust dismissal.

Section 89 of The Labour Standards Act, 1977 provides that where an employer is convicted of discharging or suspending an employee contrary to any provision of the Act, the convicting magistrate may order the employer to reinstate the employee in his former employment under the same terms and conditions in which he was formerly employed and may order the employer to pay to the employee wages the employee would have earned if he had not been wrongfully discharged or suspended by his employer.

Unionized employees have recourse against unjust dismissal through grievance procedures established under their respective collective agreements.

Under The Public Service Act, R.S.S. 1965, c. 9 a permanent employee who holds a position in the classified service not within the scope of a collective bargaining agreement and who is dismissed or demoted may appeal to the Public Service Commission within thirty days after dismissal or demotion. Subsection 39(4) provides that, in case of dismissal or demotion without sufficient cause, the Commission may make orders for the reinstatement of the employee and other pertinent measures.

A permanent employee who holds a position in the classified service within the scope of a collective bargaining agreement, and who is dismissed or demoted or has any other grievance or complaint, may appeal under such procedures as may be established by the applicable collective bargaining agreement.

The Trade Union Act, 1972, S.S. 1972, c. 137, as amended by c. 89, S.S. 1976-77, provides protection against arbitrary termination of employment in the case of "technological change" introduced by an employer. Subsection 42(2) of the Act provides:

> "An employer whose employees are represented by a trade union and who proposes to effect a technological change that is likely to affect the terms, conditions or tenure of employment of a significant number of such employees shall give notice of the technological change to the trade union and to the minister at least ninety days prior to the date on which the technological change is to be effected."

In case of failure on the part of the employer to comply with that subsection, the Labour Relations Board may, by order, require the reinstatement of any employee displaced by the employer as a result of the technological change; and require the employer to reimburse the employee for any loss of pay suffered by the employee as a result of his displacement.

C. Statistics on employment and unemployment

In the Province of Saskatchewan (population 933,800), the labour force (both sexes 15 years of age and older) is 421,000. The unemployment rate for the province is 4.5 per cent. (All figures are for the year 1977.)

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

A. Remuneration

1. The Labour Standards Act, 1977, S.S. 1976-77, c. 36, The Industrial Standards Act, R.S.S. 1965, c. 286, as amended by c. 65, S.S. 1967, The Trade Union Act, 1972 and The Public Service Act and Regulations are the main legislation applicable.

2. Principal methods used for fixing wages

Minimum wages are established by the Minimum Wage Board which is appointed under The Labour Standards Act, 1977. The Board regularly reviews economic indicators to determine the level of the minimum wage which is universally applied to all Saskatchewan workers regardless of age or sex. The minimum hourly wage between 1971 and 1978 evolved the following way: in 1971 it was set at $1.50, it was raised to $1.70 on January 2, 1972, to $1.75 on July 1, 1972, to $2.00 on December 1, 1973, to $2.25 on July 2, 1974, to $2.50 on March 31, 1975, to $2.80 on January 1, 1976, to $3.00 on January 1, 1977, to $3.15 on January 31, 1978, to $3.25 on June 30, 1978 and to $3.50 on January 1, 1980.

The Industrial Standards Act allows the Minister of Labour to bring together employers and employees to arrange standards respecting wages and hours in particular industries. It applies to all industries except mining and agriculture in any area of the province.

The Minister may set up zones for any industries. At the request of employers or employees in any industry within a zone he may authorize an officer to convene a conference of employers and employees within the industry to investigate and consider working conditions, and to negotiate wages and hours of work. The conference may submit to the Minister a schedule of wages and hours for the industry affected. It may also amend any schedules so established.

If the Minister is satisfied that the schedule is agreed to by a majority of the employees and by one or more employers representing a major part of the volume of business in the industry affected, he may approve it. The Lieutenant Governor in council may then declare the schedule to be in force within the designated zone and to be binding upon the employers and employees in the industry.

For every zone or group of zones to which any schedule applies, the Minister may appoint an advisory board of five members, two nominated by the employer and two by the employees. The other member, who is the chairperson shall be appointed by the Minister. The board shall hear complaints and generally assist in carrying out the Act and schedules thereunder.

Any provisions in a schedule regarding wage rates, hours of work or other working conditions that are less favourable than provisions in The Labour Standards Act, 1977 or any other Act, order or regulation shall be superseded by the more favourable provisions.

Every employer affected by a schedule must post a copy of it in a conspicuous place in his or her place of employment. He or she must maintain a true and correct record of wages and hours with respect to his or her employees.

The Fair Wage Policy in government contracts is embodied in the Fair Wage Resolution of the Saskatchewan Legislative Assembly (Order-in-Council 301/44), March 23, 1944, The Highways Act, R.S.S. 1965, c. 27 and The Public Works Act, R.S.S., 1965, c. 35, Section 46. It is intended to ensure that workmen engaged on provincial government public works construction projects are paid a fair and reasonable rate of wages. It applies to all provincial works and undertakings over which the Government of Saskatchewan has control.

The Fair Wage Policy is administered by the Fair Wage Officer of the government, who is the Director of the Employment Services Branch of the Department of Labour. In the event of any dispute relating to the rate of wages to be paid on provincial public works projects, the Fair Wage Officer has the authority to determine the appropriate rate.

The rates of wages to be paid on government contract work shall be the rates generally accepted as current for competent workmen in the district in which the work is being performed. If there is no current rate in the district, a fair and reasonable rate shall be paid.

A contractor holding a government contract is required to post at the site of the work a copy of the Fair Wage Clause, which is inserted in his contract, together with the schedule of wages to be paid to his workmen. He shall also keep a record of the names, trades, addresses of the workmen in his employ and the wages paid to and time worked by the workmen. The record shall be open to inspection by the Fair Wage Officer.

A contractor is required to submit to the appropriate Minister, in support of a claim for payment under the terms of a government contract, a statement showing the rates of wages and hours of labour of the various classes of workmen employed in the execution of the contract and whether any such wages remain in arrears.

Wages of unionized workers (including unionized public employees) are determined through the collective bargaining process as provided for by The Trade Union Act, 1972.

Section 15 of The Public Service Act defines the procedure for the establishment of wages of non-unionized public employees, as follows:

> (1) "The (Public Service) Commission, after notice to all employees in the classified service outside the scope of collective bargaining agreements, and after hearing any complaints, shall present to the Lieutenant Governor in Council a plan of compensation.
>
> (2) The Lieutenant Governor in Council shall determine pay ranges for all classes of positions in the classified service."

A number of legislative measures have been taken to protect employees' wages or to permit the recovery of wages by workers in case of non payment by the employer.

The Labour Standards Act, 1977 provides that wages earned by an employee but not paid to him shall be considered to be held in trust by his employer. The employer's other creditors have no right to claim against such held wages. Where an employer has failed or neglected to hold wages in trust and the assets are insufficient to pay in full wages owing, the employees shall share amongst themselves the employer's assets on a proportional basis (section 56).

The Wages Recovery Act, R.S.S. 1965, c. 296, provides that an employee who has a cause for complaint against his employer for non-payment of wages may lay a written information before a magistrate. The magistrate has the authority under this Act to order the employer to pay to the employee wages found due up to an amount not exceeding $500, excluding costs of prosecution where The Labour Standards Act, 1977 does not apply, and up to any amount where employment is within the scope of the Act.

Inspectors of the Department of Labour are authorized to determine the amount of the wages due to an employee under the provisions of The Wages Recovery Act and, if the amount is agreed to in writing by the employer and the employee, it is payable within two days to the Deputy Minister who pays it forthwith to the employee.

The Act provides that no employer can require the return of wages paid to an employee under the provisions of the Act or a contract of service. Moreover, an employer cannot discharge, threaten to discharge or discriminate against any employee for testimony in connection with proceedings relative to the enforcement of the Act, or for giving information to the Minister or his representatives relating to wages paid or owing under this Act.

Under the provisions of the Act, an authorized representative of the Minister may enter the premises of an employer, inspect records and obtain information. Employers covered by The Labour Standards Act, 1977 are also required under The Wages Recovery Act to maintain records and post regulations on their premises.

The right of a worker to enforce a claim or charge against the property of an employer, until the worker's claim for wages is paid or satisfied, is further recognized by legislation for specific categories of workers.

The Mechanics Lien Act, 1973, S.S. 1973, c. 62, as amended by S.S. 1973, c. 106 and S.S. 1973-74, c. 61, provides that all persons supplying work, services or material towards the construction, alteration, repair or improvement of land or anything which is affixed to it (e.g. a house) have a lien (legal claim) against the land, the improvements and the contract price. The worker's claim has priority over all other claims, to the extent of 30 days' wages.

The Woodmen's Lien Act, R.S.S. 1965, c. 280, provides that any person performing labour in connection with logging and lumbering has a lien against the lumber or material manufactured therefrom.

In the area of company liability, there are also five acts which describe the rights of employees to their wages when their employer's company is in financial difficulty.

Section 34 of The Bulk Sales Act, R.S.S. 1965, c. 389, provides that when a trust company disposes of the estate of a company under this Act, it must pay, in priority to all other debts, the wages of employees due for services rendered during the three months prior to the sale to the extent of $500 in each case. An employee may share with other creditors for the balance of his claim.

Section 114 of The Business Corporations Act, 1977, S.S. 1976-77, c. 10, provides that the directors of a corporation are liable to their employees for wages for work performed while they are directors.

Under Sections 112 and 236 of The Companies Act, R.S.S. 1965, c. 131, the directors of a company which is in financial difficulty are liable with respect to the wages due to employees of the company, to a maximum of six months. The directors are also liable to the Workers' Compensation Board for assessments due. Wages due to employees of a company and Workers' Compensation Board assessments shall be paid out of any assets seized on behalf of debenture holders, in priority to any claim for principal or interest in respect of the debentures.

Section 10 of The Companies Winding-Up Act, R.S.S. 1965, c. 141, provides that, in distributing the assets of a company, a liquidator shall pay, in priority to the claims of the general creditors of the company, the wages of all employees of the company, to the extent of three months' wages. Employees are entitled to rank as general creditors for any residue of their claims.

Section 15 of The Creditors' Relief Act, R.S.S. 1965, c. 98, provides that employees of an execution debtor who file in the office of the sheriff their claims for wages owing, prior to the time fixed for the distribution of monies under seizure, shall be entitled to receive up to three months' wages due, in priority to the claims of other creditors. Such employees shall be entitled to share pro rata with the other creditors with respect to any residue of their claims.

4. Average earnings and cost of living

Average weekly earnings in industrial establishments employing at least 20 workers, other than agriculture, fishing, trapping, services and public administration were $239.30 at the end of 1977, compared to $198.96 at the end of 1975, and $115.02 at the end of 1970.

The Consumer Price Index for Canada as a whole has risen from a base 100 in 1971 to 160.8 in 1977.

5. Equal pay and maternity leave

The Labour Standards Act, 1977 provides that no employer or person acting on behalf of an employer shall discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or vice versa, where such employees are employed by him for similar work which is performed in the same establishment under similar working conditions and the performance of which requires similar skill, effort and responsibility, except where such payment is made pursuant to a seniority system or merit system (section 17).

The Act further provides that no employer shall reduce the rate of pay of any of his employees in order to comply with this provision and that, where an employer has contravened this provision, he shall not thereafter be entitled to reduce the rate of pay to which an employee is entitled on the grounds that the work is subsequently performed only by employees of the same sex.

An inquiry procedure is established to deal with alleged violations of the Act, with the possibility of a formal inquiry by the Saskatchewan Human Rights Commission (sections 18-21).

Section 23 of The Labour Standards Act, 1977 provides that every employee who has been in the employment of her employer for a continuous period of twelve months or more is entitled to maternity leave consisting of a period not exceeding eighteen weeks commencing at any time during the period of twelve weeks immediately preceding the estimated date of birth.

If the employee is not able to return to work after that period, for medical reasons, the employer must grant her a further period of leave of up to six weeks (section 24).

Section 26 of the Act provides that employees who have been granted maternity leave shall be reinstated in their position after return or in a comparable position with not less than the same wages and benefits and no loss of seniority or pension benefits.

Subsection 27(1) provides that no employer shall dismiss, lay off, suspend or otherwise discriminate against an employee by reason of the fact that she is pregnant; is temporarily disabled because of pregnancy; or has applied for maternity leave in accordance with the Act.

Public service employees who are not within the scope of a collective bargaining agreement are entitled, under The Regulations Under The Public Service Act, to maternity leave of a six months period, with comparable protection.

Employees who have been granted maternity leave are entitled to unemployment benefits as discussed in the federal part of the report under Article 9.

B. Safe and Healthy Working Conditions

In order to guarantee safe and healthy working conditions, The Occupational Health and Safety Act, 1977 is designed to develop an effective occupational health program to promote the maintenance of the highest degree of physical, mental and social well-being of workers. The Act applies to all places of employment and working places in the province which are subject to provincial jurisdiction. It is intended to serve as a mechanism by which hazards can be better identified and controlled. The Act provides for the establishment of joint employer-employees mandatory Occupational Health committees at all places of employment with ten or more workers.

Under the Act, occupational health officers are given fairly wide powers to enter and inspect places of employment, to make necessary tests and examinations and to issue stop-work notices if there is a risk of serious personal injury involved. Also under the Act, an employee may refuse to do any particular act or series of acts, where he has reasonable grounds for believing it (or they) could be unusually dangerous, until steps have been taken to satisfy him otherwise or until the occupational health committee or an occupational health officer has resolved the matter.

The Minister of Labour is empowered to require the provision of medical supervision of employees in any place or class of places of employment or in any occupation where there may be a risk of injury or a danger to health. He may also, under certain conditions, require the establishment of an occupational health service in the place, or class of places, of employment.

The Act further provides that no employer can take any discriminatory action against any worker by reason of the employee's participation in or association with the functions of the occupational health committee at his place of employment.

Various other laws are designed or contain clauses designed to ensure safety at the place of work. Some of these acts are: The Boiler and Pressure Vessel Act, 1977, S.S. 1976-77, c. 8; The Electrical Inspection and Licensing Act, R.S.S. 1965, c. 367; The Gas Inspection and Licensing Act, R.S.S. 1965, c. 368, amended by c. 68, S.S. 1967; The Building Trades Protection Act, R.S.S. 1965, c. 374; The Radiation Health and Safety Act, R.S.S. 1965, c. 262, amended by c. 52, S.S. 1970, by c. 42, S.S. 1971 and by c. 82, S.S. 1973.

The last Act mentioned above provides that prior to the installation or alteration of radiation equipment, a plan must be submitted for approval to the Minister. Every operator of radiation equipment shall file a report upon completion of any installation or alteration to such equipment, as well as submitting an annual report to the Minister.

Every person controlling the operation of radiation equipment must be an approved operator.

The Act prohibits the employment of persons under 18 years of age in occupations which require them to be regularly exposed to ionizing radiation emitted by radiation equipment, for example, x-ray equipment.

An occupational worker, radiation technician-in-training or student who knows or suspects that she is pregnant shall report such fact or suspicion to her employer or the person in charge of her training. If such a person wishes to continue working or training, she may, through consultation with her employer or the person in charge of training, reassess and revise her work duties so that the maximum permissible exposure for a pregnant person is not exceeded.

Regulations under the Act require that a cumulative record be kept by the employer for every radiation technician, occupational worker or student indicating the extent of exposure to ionizing radiation, including all previous radiation exposure. Such records must be made available for examination upon request of the Minister.

The Act provides for the appointment of a radiation health and safety committee. The committee shall advise the Minister with respect to radiation health, general safety measures and a code of recommended practice, promote an educational program for persons employed in the same field and give general direction and professional advice to radiation health officers.

Finally The Coroner's Act R.S.S. 1965, c. 113, amended: S.S. 1966, c. 94, S.S. 1972, c. 19, provides that where an inquest is held with respect to a death resulting from an accident in a plant, factory or mine, a representative from the union to which the deceased belonged may appear at the inquest and examine and cross-examine witnesses.

C. Equal opportunity for promotion

Under The Public Service Act, positions are separated into classified and unclassified divisions. Appointments in the classified service are made by the Public Service Commission on the basis of seniority, merit and fitness. The Commission conducts examinations to establish promotion and employment lists, and eligible persons are ranked in the order of their final ratings in the examination. The examinations must fairly determine the qualifications, fitness and ability of the persons tested to perform the duties of the positions to be filled.

D. Rest, leisure, limitation of working hours, and holidays with pay

The Labour Standards Act, 1977 and regulations provide for annual holidays of three weeks after one year of service and four weeks after 10 years of service. A maximum of 40 hours of work, without the payment of overtime is established by the statute. A total of nine public holidays is provided.

For unionized workers (including unionized public employees) these conditions of work are subject to the collective bargaining process under The Trade Union Act, 1972. Unionized workers enjoy similar or better conditions than provided for in The Labour Standards Act, 1977.

For public employees who are not within the scope of a collective bargaining agreement these conditions of work are determined by the Regulations established under The Public Service Act. Those employees are entitled to ten paid public holidays each year. They are entitled to take three weeks vacation leave with pay during their first fiscal year of employment and thereafter. They are entitled to four weeks vacation with pay after ten years of employment.

ARTICLE 8: TRADE UNION RIGHTS

Section 6 of The Saskatchewan Human Rights Code provides as follows:

> "Every person and every class of persons shall enjoy the right to peaceable assembly with others and to form with others associations of any character under the law."

The Trade Union Act, 1972, as amended, guarantees the right of employees to organize in and to form, join or assist trade unions and to bargain collectively through representatives of their own choosing. The trade union selected by the majority of workers shall be the exclusive representative of all the employees for the purpose of bargaining collectively (section 3).

The Act applies to all persons in the employ of an employer except those whose primary responsibility is to actually exercise authority and actually perform functions that are of a managerial character or those who regularly act in a confidential capacity with respect to the industrial relations of their employers.

The Act applies to any employer who employs three or more employees, and to any employer with fewer than three, if one is a member of a trade union which includes among its membership employees of more than one employer. In the case of a contractor who provides his employees' services under contract to a principal, the Labour Relations Board may determine either the contractor or the principal to be the employer.

The main provisions of the Act are administered by the Labour Relations Board. The Board consists of five members including a chairperson and four others representing employers and organized employees equally.

The procedure for certification commences with an application to the Labour Relations Board. The applicant is required to submit, as evidence of employee support, cards or other such evidence signed by 25 per cent or more of the employees, showing that they wish the applicant to represent them for the purpose of bargaining collectively.

Employees have the right to strike and employers have the right to lockout following the expiry date of a collective agreement, whether the previous agreement has been terminated or whether a revision only is sought. This clause can become operative in a case where a previous contract had a "no-strike no-lockout" section in it.

Section 43 of The Police Act, 1974, S.S. 1973-74, c. 77, describes the arbitration procedure applicable to contract disputes between the police and the municipal council or the municipal board of police commissioners.

There are two situations in which either party may invoke arbitration. The first is one in which proceedings to conclude or revise an agreement have, in the opinion of either party, reached a point where agreement cannot be reached. The second situation arises when either party refuses to bargain or neglects to commence bargaining within 15 days after receiving a request in writing to do so by the other party. Such a request must be made from 30 to 60 days before the expiry date of an existing agreement, or prior to February 1st where no agreement exists.

The decision of the board of arbitration established to settle the dispute shall be binding on both parties and shall be put into effect promptly after being rendered. The decision of the board, however, is binding and must be implemented only if and while the constitution of the local labour union of which the police are members contains a provision prohibiting a strike by its members.

The Fire Departments Platoon Act, R.S.S. 1965, c. 173, as amended by S.S. 1973, c. 39, contains similar provisions applicable to disputes between firefighters and their employers.

The Trade Union Act, 1972 contains a series of provisions protecting unions and their members against unfair labour practices.

ARTICLE 9: RIGHT TO SOCIAL SECURITY

1. The Saskatchewan Assistance Plan

The objectives of The Saskatchewan Assistance Act are to provide an adequate level of financial assistance and health services to persons in economic need; and to develop, provide and support services that prevent or alleviate the causes and effects of poverty and dependency.

This generalized social assistance program provides a uniform standard of recurring items of basic maintenance, and for items of need that may arise from special circumstances.

Eligibility for assistance is determined on a needs test or budget deficit basis. A budget that includes food, clothing, shelter utilities or costs of board and room or nursing care and personal allowances is calculated and balanced against the resources available to an applicant. Resources include income and assets with some exceptions. If the needs exceed the resources, a budget deficit exists, and the applicant and family is considered to be in need.

Since the basis of eligibility is need and not the cause of need, unemployed employables and wage earners or self-employed persons engaged in full-time employment are granted assistance where every available resource is considered totally inadequate to meet need, which if allowed to exist, would seriously impair the health and development of the client and his dependents. This provision is made in recognition that there are persons who work full time at their optimum capacity and earning power, yet their income does not meet their needs.

Health benefits and social services are also provided under the Saskatchewan Assistance Plan. The major types of services are counselling, rehabilitative and preventive services. The recipient is assisted through formal plans such as assessment, upgrading of education and training, or through informal facilities such as social contacts, in senior citizens centres.

The applicant has the right to be notified in writing of any change or refusal, and has the right of appeal to a Local Appeal Committee composed of local citizens. There is a second level of appeal by a Provincial Board which hears appeals pertaining to Local Committee decisions. The Provincial Board decision is final.

The Saskatchewan Assistance Plan benefits are delivered through 13 regional offices and local units. The plan is funded through general tax revenue and is cost shared 50% with the federal government under the Canada Assistance Plan.

2. (a) Medical Care;

HEALTH CARE SYSTEM IN SASKATCHEWAN

Universality

Like many Saskatchewan enterprises, health services are based on the co-operative philosophy. The costs of care are shared by all so that everyone may share in the benefits without crippling financial burdens. In Saskatchewan, health services are financed from general tax revenues and resources revenue. No annual premiums are charged to individuals or family units for these services.

Health services coverage is available to persons who make their home and are ordinarily present in Saskatchewan. All beneficiaries receive health services under the plans, irrespective of age or physical conditions existing prior to their becoming beneficiaries.

All persons must be registered with the Saskatchewan Hospital Services Plan to be eligible for benefits under Provincial Health Plans. These plans include: Saskatchewan Hospital Services Plan, Saskatchewan Medical Care Insurance Commission, Saskatchewan Prescription Drug Plan, Saskatchewan Hearing Aid Plan, Saskatchewan Aids to Independent Living Program and the Saskatchewan Dental Plan.

Hospital and Medical Services

Health legislation and programs in the province are based on the principles of comprehensiveness, accessibility and universality of coverage. On this basis the government of Saskatchewan in 1946 enacted The Saskatchewan Hospitalization Act which provided universal hospital care insurance on a province-wide basis. Insurance coverage was also established in 1961 to cover a wide range of medical services provided by or under the direction of a physician; since that date refractions by optometrists and chiropractic services have also become insured services under authority of The Saskatchewan Medical Care Insurance Act. For this joint coverage residents were required to pay an individual joint tax of $36 per year or a family joint tax of $72 per year.

As of January 1, 1972, residents aged 65 years of age or over were no longer required to pay this tax. Further effective January 1, 1974, the joint hospital/medical tax was abolished for all citizens. One provision of The Medical and Hospitalization Repeal Act states, in effect, that the only criterion for a person being a beneficiary under The Saskatchewan Hospitalization Act or The Saskatchewan Medical Care Insurance Act will be permanent residence in the province of Saskatchewan.

Under the Saskatchewan Hospital Services Plan most hospital services which in the opinion of the patient's attending physician are medically required, are insured. For both inpatients and outpatients of Saskatchewan hospitals, most services normally available are insured. Benefits for emergency and elective hospital services obtained out of province are also available based on 100% and 75% respectively of the average daily rates of general hospitals in Regina and Saskatoon in the preceding year.

Under the Saskatchewan Medical Care Insurance Commission payment is made to phyicians on the basis of 100% of the Commission's Payment Schedule and in accordance with its assessment rules. For services provided by optometrists, chiropractors and dentists payment is made at rates agreed to between the respective professional organization and the Commission.

Prescription Drugs

Legislation involved includes: The Prescription Drugs Act, an Act to amend The Pharmacy Act, and an Act to amend The Mutual Medical and Hospital Benefit Association Act.

The Prescription Drugs Act, passed in 1974, provides legislative authority for the Minister of Health to establish a program to assist residents of the province in purchasing drugs they may require for therapeutic or diagnostic purposes within the Department of Health. The objectives which the prescription drug program attempts to meet include: improvement of the quality of drugs prescribed through a drug formulary, to assure high quality drugs and drug comparability; to substantially reduce the cost of prescription drugs to the consumer; and to place a limit on any charges citizens may pay to their pharmacists for drugs listed in the formulary. In June, 1974, an expert advisory committee was selected to prepare a drug formulary to form the basis of the Saskatchewan Prescription Drug Plan. A formulary is a list of the most commonly used drugs that have proven quality, are of therapeutic value and whose side effects are known. It also serves as a guide to comparable drug products.

The drug plan is not an insured or grant program. Cost savings, however, accrue because of the formulaly, standing offer contracts and bulk purchasing. When several brands of comparable drugs of high quality are in existence reimbursement is at the lowest price. The drug plan pays for the cost of all drug materials listed in the formulary. There are over 1,300 drug products listed. Standing Offer Contracts are negotiated with drug manufacturers to supply specific drugs to approved wholesalers at fixed prices which are substantially lower than those generally available. Some prescription drugs are bulk purchased. The existing wholesale and retail system of pharmacies is utilized. Consumers pay some or all of the pharmacist dispensing fee. In Saskatchewan a consumer now pays a prescription charge of no more than $2.60 for each drug covered by the Drug Plan. Some pharmacies charge less. The cost of insulin and urine testing agents used by diabetics is $1.00 per package. The Government of Saskatchewan pays the balance of the pharmacist's professional fee plus the full cost of drug materials.

Hearing Aids

The Hearing Aid Act, which was passed in 1973 and amended in 1977, authorizes the Minister of Health to make such arrangements for the provision of hearing aids to permanent residents of the province requiring them under such terms and conditions as the government considers advisable. The objective of this program is to provide high quality hearing aids to residents of Saskatchewan at greatly reduced costs and to provide necessary support services.

The Saskatchewan Hearing Aid Plan came into operation on August 21, 1973. Under this Plan the average cost of a hearing aid has been reduced from between $350-$375 to an average of $118.82 in 1978-79. This is not an insurance program. The Saskatchewan Hearing Aid Plan bulk purchases hearing aids of high quality and sells them to beneficiaries at cost price, with the government absorbing the operating costs of the program. Services are provided at two base clinics, and regular clinics are held in all regions of the province by staff of the base clinics. Services and repair services are provided at cost of parts or manufacturers charge. Prior to selling an aid, professional audiologists provide an audiological screening test, to determine how the person's needs may be met. This program has greatly increased the accessibility of hearing aids to persons with hearing loss or impairment by reduction of the financial burden especially to aged citizens of the province.

Prosthetic and Orthotic Devices

Legislation involved is The Department of Health Act. One provision of this Act states that the Minister may promote or provide a program of diagnostic, treatment, education, supportive and other rehabilitation and maintenance services for persons with residual physical disability due to accident, congenital defect, injury, disease or other illness, and may provide such programs either alone or in cooperation with institutions, organizations and professional bodies and may enter into agreements with the same for the purpose of providing a well integrated program for services for such persons and for providing services to them.

Objectives of the government include removal of the financial burden faced by handicapped persons in obtaining necessary medical appliances and equipment, consolidation under one program of the provisions of medical equipment by various government sponsored programs enabling cost savings to be made through bulk purchasing, coordination with the development of an effective community based rehabilitation program, and reduction of institutional health services costs by assisting handicapped persons to live in their home environment.

A Province-wide program, Saskatchewan Aids to Independent Living, designed to provide direct assistance to the physically handicapped began on March 1, 1975. In Phase I of this program needed prosthetic devices (i.e. artificial hands, limbs and legs) or orthotic devices (i.e. braces) are provided at no cost to the handicapped. Phase 2 of the plan includes provision of such equipment as wheelchairs, walkers, commodes, etc. on a loan basis from depots established throughout the province. This plan involves no premiums, deterrents or fees. Costs are transferred to the public sector. All residents are eligible to obtain needed assistance from the program. Health nurses in the regions provide follow-up, rehabilitation services to those receiving devices or equipment from this program.

The plan removes financial barriers faced by handicapped persons in acquiring medical devices and equipment. It helps them to enjoy a higher quality of life in their homes and to be more independent rather than seeking institutional care.

Dental Care for Children

Legislation involved includes: The Ancillary Dental Personnel Education Act, The Saskatchewan Dental Nurses Act and The Dental Care Act.

It was estimated that only 40% of the province's children were fortunate enough to receive dental care on a regular basis due to the severe shortage of dentists, high costs, geographic distribution of dentists and parental indifference. To meet these needs the government decided to provide a program for the prevention and treatment of dental disease among children aged 3 to 12 inclusive. The first step towards this goal was passage of legislation authorizing the Minister of Health to make arrangements for the education of dental personnel. As a result, a two-year educational program for dental nurses was established in September, 1972 at the Wascana Institute of Applied Arts and Science to train dental nurses which would be required by the children's dental program. The Saskatchewan Dental Nurses Act, passed in 1973, provides for the registration of dental nurses and authorizes regulations to be made in connection with their practice and employment. The Dental Care Act, passed in 1974, contains broad authority for the Department of Health to operate a children's dental care program and authorizes the Minister to enter into agreements with, or employ dentists, dental nurses and certified dental assistants, and to do such other things as might be necessary for the establishment and operating of the program.

The Saskatchewan Dental Plan came into effect in September, 1974. The plan is the first of its kind in North America. It is tackling one of the most neglected areas of health among children and is an important part of the total health picture. Implementation has been phased. All children born in 1968 were eligible to enroll in September, 1974. Currently all children born in the years 1966 to 1974 inclusive are eligible for care by the Plan. It is estimated that approximately 150,000 children could be enrolled when the program is fully operational. Dental teams, made up of dental nurses, dental assistants and supervising dentists work out of various centres in all regions of the province to provide necessary services. Dental clinics are located in schools to make access convenient to children and parents. There are no premium or enrollment fees, and no charge is made for services provided by staff of the Saskatchewan Dental Plan.

Cancer Care

Legislation was first passed in 1930 authorizing establishment of a cancer control program in Saskatchewan. New legislation, The Cancer Control Act, was passed in 1944 providing for treatment at provincial expense for persons who had been resident in the province for more than six months. In 1958, treatment was extended as an insured benefit to persons who had been resident in the province for more than three months. For landed immigrants and some special residents returning to Canada, this period is reduced to one day.

There is no charge to patients for diagnostic and treatment services received at the cancer clinics. In addition, payment is made for medical and surgical services provided by physicians in private practice, in-hospital drugs, and certain outpatient drugs in the active treatment of cancer. Patients receiving cancer services outside the province are reimbursed at the same rates as if the services were provided in Saskatchewan. If a patient is referred outside the province by a cancer clinic for treatment not available in Saskatchewan, payment is made for medical and hospital expenses incurred.

In July, 1978 a Report on the Saskatchewan Cancer program was released by the Minister of Health. In response to this report The Cancer Foundation Act was passed. This Act provides for the establishment of a new body to be known as the Saskatchewan Cancer Foundation. The Foundation operates the cancer clinics in Regina and Saskatoon and directly employs personnel for those clinics. The Foundation also makes payment for cancer services provided to patients outside the clinics and receives funds for this purpose through legislative authority.

The new Act also provides for the establishment of a Medical Advisory Committee to advise the Foundation on professional matters related to cancer services, and authorizes the establishment of hostels which were not provided for under previous legislation.

Prior to passage of this legislation the cancer programs of Saskatchewan were operated under the authority of The Cancer

Control Act. Then all persons employed in the cancer clinics were employees of Saskatchewan Health and payment for all cancer services provided by persons other than clinic personnel was made by that department.

Health Research

To ensure a continuing and stable source of funds for health research carried out in Saskatchewan, the Government has passed The Health Research Act. This Act contains the administrative mechanism for the Government of Saskatchewan to provide financial assistance for health research purposes. It provides for the establishment of a board to be known as the Saskatchewan Health Research Board consisting of not less than six nor more than twelve persons appointed by the Lieutenant Governor in Council. The Board is directed to assist and stimulate research in the healing arts and health sciences and in particular, is directed to stimulate and assist research in:

a) the causes, detection, distribution, prevention and management of human illness and disabling conditions;

b) health maintenance and health promotion;

c) the social, environmental and biological aspects of the human aging process; and

d) the utilization of health services.

Mental Health

The Saskatchewan approach to mental health services is based on the principle that a full range of direct and supportive mental health services be available to all residents of the province in their own communities, or within reasonable travelling distance of their homes. Consistent with this approach, comprehensive mental health services are provided in each of the eight mental health regions in the province. Recent developments in the distribution of services have allowed the regions to become largely self-sufficient in dealing with their own community mental health needs. Priority is given to services which can be provided without disruption of the daily activities of individuals and families. This is accomplished through the development of a wide range of day, evening and overnight services. Hospital services are available as a specialized support to the community program, but are provided only when necessary and for as brief a time as possible. In 1961 The Mental Health Act was passed. Three years later the Yorkton Psychiatric Centre was completed representing a significant move away from the mental hospital concept to the concept of psychiatric units within general hospitals. In 1963, the patient population of Saskatchewan's two mental hospitals was 3,111.

By 1970, this patient population had dropped to 931. As of December 31, 1978, the total inpatient population in Saskatchewan facilities had dropped to 408.

Recent amendments to The Mental Health Act are as follows:

1) An amendment provides that changes against the estate of a deceased person who had been a patient in an institution will be made in the future only in respect of the cost of care and maintenance received in the institution prior to May 1, 1979. The only institution now in operation is the Saskatchewan Hospital, North Battleford.

2) New section 46.1 authorizes the medical officer in charge of an inpatient facility to make an order for receiving and transporting a patient from another province to the facility for examination in order to determine whether he requires inpatient hospital services.

3) Another amendment will have the effect of authorizing the medical officer in charge of an outpatient facility (mental health clinic) to cause a person to be examined by a physician to determine whether he is competent to manage his estate.

4) Provision is also made for a review panel to be established for mental health clinics as well as inpatient facilities in order that a person in respect of whom a certificate of incompetence has been issued, following an examination made upon the order of the medical officer in charge of a mental health clinic, may complain about the issue of the certificate to a review panel.

5) The remaining amendment reduces the observation period for a person charged with an offence and remanded by the courts to a psychiatric facility for observation. The observation period is reduced from a period not exceeding thirty days to a period not exceeding fifteen days.

Healthier Lifestyles

In addition to the plans described previously, increasing emphasis is being placed on healthy lifestyles in Saskatchewan. A significant proportion of illness in the last quarter of a century is the result of inactive and unhealthy lifestyles. Heart attacks, cancer, and motor vehicle accidents are the three largest killers in this province. All could be significantly reduced by improvements in lifestyle habits such as diets, exercise, stress, smoking, alcohol and drugs.

In this regard the AWARE Program was launched in September, 1974 and the Feelin' Good Program in October, 1977. AWARE is a primary prevention program designed to change attitudes regarding alcohol use and abuse and is aimed at all social drinkers in the province. Results of annual surveys indicate that public attitudes are changing and people are less supportive of alcohol abuse since the program's inception. Feelin' Good attempts to encourage the development of positive attitudes to lifestyles and to show how these can effect enjoyment of life. Attention is being given to preventing disease with emphasis on physical fitness and good nutrition.

All these components described above are included in the Saskatchewan Health Care System. Program areas not previously discussed which will be supportive to these programs and are currently being developed include a province-wide home care program, a municipal ambulance road program and increased emphasis on services to the elderly.

2.(b) Cash sickness benefits;

Cash sickness benefits are provided mainly in the form of leave of absence with pay in case of sickness or as compensation for loss of income in case of sickness or disablement resulting from employment injury or industrial disease (see item 2(g) below).

2(c) Maternity benefits;

Maternity benefits are provided by the federal government under the Unemployment Insurance Program, as described in the federal part of this report.

2(d) Invalidity benefits;

Invalidity benefits are provided through various programs described above (the Saskatchewan Assistance Plan and various health programs) and through other programs such as compensation for invalidity resulting from work accidents (below).

2(e) Old-age benefits;

The Saskatchewan Income Plan

The Saskatchewan Income Plan (Senior Citizens' Benefits Program) was implemented in October, 1975, and is operated by the Income Security Branch of Saskatchewn Social Services. This program was implemented by the Government of Saskatchewan to provide additional income to senior citizens whose major sources of income are the Old Age Security Pension and the Guaranteed Income Supplement, both paid by the federal government.

The amount of Senior Citizens' Benefit payments can vary from a maximum of $25 per month to a minimum of $4.50 per month, per person. The amount of payment depends on the level of personal income available to the senior citizen, and his or her marital status. To be eligible for payment, senior citizens must receive the income-tested Guaranteed Income Supplement from the federal government.

The amount of Senior Citizens' Benefit payments is determined by the amount of Guaranteed Income Supplement paid to an individual by the federal government. There is no change to the Senior Citizens' Benefit payments when quarterly cost-of-living adjustments are made to the Guaranteed Income Supplement in January, April, July and October of each year. There is a change to the Senior Citizens' Benefits payments when an individual's Guaranteed Income Supplement is adjusted due to changes in his or her personal income.

Senior Citizens' Benefits are paid to approximately one third of all persons over age 65 in Saskatchewan, and are funded out of general tax revenue to the province. For those persons also eligible for benefits under the general assistance program, the Saskatchewan Assistance Plan, cost sharing at the rate of 50% is received for the Saskatchewan Income Plan from the federal government under the Canada Assistance Plan.

Retirement pensions

The Pension Benefits Act, 1967, S.S. 1967, c. 67, Amended: S.S. 1972, c. 88, is intended to promote the establishment, extension and improvement of pension plans throughout Saskatchewan. It applies to employees covered by pension plans, their employers and trustees of pension plans. Mandatory pension coverage is not required by the legislation.

Registration. Employers are required to file with the superintendent of Pensions a copy of the terms of the pension plan and any amendments thereto for purposes of registration, and must ensure that the plan complies with prescribed standards for registration as set out in the Act.

Deferred annuity. A pension plan must provide that a member of the plan who reaches 45 years of age and who has been in the service of an employer for at least ten continuous years, is entitled, on termination of employment before reaching retirement age, to a deferred annuity, commencing at retirement age.

The annuity shall be equal to the pension benefits he has earned under the pension plan. The employee may not withdraw his contributions under the plan, on termination of employment; however, a plan may provide that in partial discharge of his rights under the plan he may receive a lump sum equal to not more than 25 percent of the commuted value of the deferred life annuity.

Funding and investment. A pension plan shall make provisions for adequate funding and investment of pension fund money as prescribed by the regulations. The employer is required to pay into the pension fund the amount needed in excess of employee contributions to provide for benefits in respect of current service. Certain exemptions from this rule have been made by regulation.

Winding up of a pension plan. In the event of termination or winding up of a pension plan, the employer must pay for all amounts that he would otherwise have been required to pay up to the date of termination or winding up of the plan.

The Act also gives the Superintendent the right to declare a pension plan wound up on a date prior to the employer's decision to wind up his business operations. This is in order to protect any employees whose services may be terminated prior to the actual winding-up of the pension plan and makes them eligible for their vested rights in the employer's contributions.

Reciprocal agreements. The Superintendent may enter into agreements with other provinces to provide for the reciprocal registration, audit and inspection of pension plans and for the establishment of a Canadian Association of Pension Commissions.

2(f) Survivors' benefits;

Survivors' benefits are provided mainly through the workers' compensation plan described below under 2(g).

2.(g) Employment injury benefits;

The principal legislation is The Workers' Compensation Act, 1974, S.S. 1973-74, c. 127, amended: S.S. 1974-75, c. 49, S.S. 1976-77, c. 102.

The purpose of this Act is to provide for prompt payment of financial and medical benefits and rehabilitation assistance to workers who are disabled by industrial injury or disease arising out of and in the course of employment. Accident for the purpose of this Act is defined as follows:

1. a willful act not being the act of the worker:
2. a chance event caused by a physical or natural cause;
3. any disablement arising out of and in the course of employment. Where it is caused by disease, the date of the accident for the purpose of this Act shall be deemed to be the date of disablement.

The Act covers all workers with the exceptions of farm workers, teachers, domestic workers in one or more private homes, commercial fishermen and workers in a few other occupational classes. If a worker is a resident of Saskatchewan, or his usual place of employment is Saskatchewan, and if his work is both within and without Saskatchewan, he or his dependents are entitled to compensation as set forth in this Act even if the worker is injured outside the province.

The Act is administered by a three-member board appointed by the Lieutenant Governor in Council, as a body corporate and called the Workers' Compensation Board.

Compensation for Injury

Scale of compensation. Where a permanent total disability results from the injury, the worker is entitled to receive weekly compensation equal to 75 percent of his or her average weekly earnings. The average weekly earnings for the purpose of calculating compensation is the greater of either 1/52 of the amount earned in the previous 12 months, or the regular remuneration that the worker was receiving at the time of the injury.

The maximum compensation payable to a permanently totally disabled worker is 75 per cent of average earnings up to an income earning ceiling of $18,000 per annum in 1978. The minimum amount of compensation payable at 75 per cent of average earnings is $405 per month. Where a worker's average earnings are less than $405 per month he shall receive the actual amount of such earnings. Compensation is payable during the life of the injured worker.

Where the injury results in temporary total disability, compensation shall be the same as that prescribed in the case of permanent total disability but shall be payable only while the disability lasts.

Where the permanent partial disability results from the injury, the worker shall receive a weekly payment for life corresponding to the degree of impairment of earning capacity. However, if the impairment is 10 per cent or less, the Board, at the request of the pensioner, may make a lump sum settlement in any case where it deems proper and is most advantageous to the worker.

Compensation for temporary partial disability is the same as that for permanent partial disability, but is payable only while the disability lasts.

Scale of compensation for injuries from accidents which occurred prior to January 1, 1976: the monthly amount of compensation for permanent disability shall be, on and after April 1, 1977, increased as follows: percentage degree of impairment x $80.

Qualifying period. No compensation other than medical aid is payable if the injury does not disable the worker longer than the day of the accident. If however, the worker is disabled longer than the day of the accident, compensation is payable from and including the day following the accident.

Compensation in Fatal Cases

Burial. Where the accident results in death, funeral expenses not exceeding $400 are paid. In addition, up to $50 is provided by the Board towards the cost of a burial plot.

Surviving spouse and children. If the surviving spouse was dependent upon the worker, he or she is entitled to receive a monthly payment of $325. If the worker leaves children, the dependent spouse shall receive an additional $85 per month for each child until the age of 16. In the event of death of the spouse, the children's allowance shall be increased to $110 per month.

Dependent orphans. Where the children left are orphans, each child is entitled to receive a monthly payment of $110. In addition, the Board, at its own discretion, may pay an additional lump sum to orphan children less than 16 years of age.

Additional benefits. In addition to any compensation provided for the surviving spouse or where the children are orphans, the foster parent shall be entitled to a lump sum of $500.

Remarriage of a spouse. Where a surviving dependent spouse remarries, the monthly payments to which that person is entitled shall cease, but a lump sum equal to two years' benefits will be paid by the Board. The children's payments will continue.

Medical Aid

When a worker's claim is allowed by the Board, regardless of the length of disability, such worker is entitled to any medical and surgical aid, hospital and skilled nursing services and other treatment required as a result of the injury. Where necessary, the worker shall be supplied with artifical limbs and apparatus and shall be entitled to have these repaired, maintained and renewed. Where the Board has provided a worker with an artifical limb, or with an appliance, a clothing allowance may be paid.

An injured worker is also entitled to have broken dentures, eye glasses, artifical limbs repaired or replaced when breakage occurs by an accident in the course of a worker's employment.

All medical aid is paid for by and is under the direction of the Board and any questions or disputes are to be determined by the Board.

It is unlawful for any employer to collect or retain from a worker any contribution toward medical aid or compensation, nor is a doctor entitled to collect from the worker for service under the Act.

Industrial Diseases

Where an industrial disease has disabled a worker or caused death, and provided that the disease is due to the nature of the worker's employment, whether under one or more employments, he or she or their dependents shall be entitled to compensation on the same basis as personal injury from accident.

Worker's Advocate

In order to provide an effective appeal mechanism for the use of an aggrieved injured employee, the Act provides for the appointment of a Worker's Advocate. This person has the authority to receive complaints, examine Workers' Compensation Board files and assist an employee or his or her dependents in obtaining compensation under the Act.

Accident Fund

An Accident Fund is maintained by contributions from the employers in the classes of employment covered by the Act. Compensation to all workers is paid from the Accident Fund. Assessment of contributions from the employers is made by the Board following an annual review of the earnings of workers injured during the previous year. On January 1, 1978, the Board (in accordance with Section 39 of the Act) ordered an increase in the ceiling for payment of assessment and benefits from $16,000 to $18,000 per annum for accidents occurring on and after that date.

2(h) Unemployment benefits;

Unemployment benefits are provided by the federal government as described in the federal part of this report.

2(i) Family benefits.

Family Income Plan

The Family Income Plan was implemented in October, 1974, and is a centralized program operated by the Income Security Branch of Saskatchewan Social Services. The plan provides direct financial benefits to families with dependent children and whose income is below prescribed levels. It was designed to increase the available resources of the working poor with children.

Eligibility requirements include:

- dependent children under age 18
- residence in Saskatchewan
- gross assets less than $100,000
- meeting a test of income.

The basic exemption for a family of two adults and two children is $6,200 annually plus Family Allowance benefits. Above that point, annual benefits are reduced to $1.00 for every $2.00 of additional income.

Maximum benefits are $50.00 a month for each of the first three children and $40.00 a month for the fourth and subsequent children.

Family Income Plan benefits are paid to some 8% of all children in the province and are funded out of general provincial revenue. Cost sharing is received under the Canada Assistance Plan for cases meeting a minimal needs test or cases which are also eligible for benefits under the Saskatchewan Assistance Plan.

Day care services

One of the major objectives of the Saskatchewan Assistance Plan is to make day care services financially accessible to all families who need them. Families who may need day care include:

- single parents who are working or enrolled in educational improvement

- families in which one parent is incapacitated and the other is working or enrolled in educational improvement

- families in which both parents are working or enrolled in educational improvement

- families whose children require care for social or medical reasons.

Clients may choose between two distinct types of day care services - the neighbourhood day care centre and the family day care home. Whichever service they choose, day care fee subsidies are available to families who qualify based on their monthly income, the number of children in the family, and the fee that is being charged.

The Department of Social Services provides grants to new centres. In addition, special supervision grants of $150 per month for each handicapped child are available to centres to help alleviate the cost of caring for handicapped children. Also, a pilot grant of $50 per month for each handicapped child is available to centres for the purchase of specialized equipment and services.

10. NEWFOUNDLAND AND LABRADOR*

As a manner of introduction it should be noted that the Province of Newfoundland and Labrador through the House of Assembly in legislative session enshrined in the Preamble to The Newfoundland Human Rights Code the same principle contained in paragraph 1 of the Preamble to the International Covenant on Economic, Social and Cultural Rights.

In principle, the legislation enacted in the Province of Newfoundland and Labrador may be described as being in harmony with the International Covenant on Economic, Social and Cultural Rights. A comparison of the Newfoundland and Labrador Statutes can only come to the conclusion that Newfoundland and Labrador law is basically in conformity with the Covenant.

While the legislation enacted in the Province of Newfoundland and Labrador basically conforms with the Covenant, it should be borne in mind that the Covenant does not become a statute of the Province until such time when equivalent provisions are enacted by the Lieutenant-Governor in the House of Assembly in legislative session.

Respecting Individual Articles Contained in Part III

Comments on individual articles will reflect enacted legislation as well as the position taken by the Province of Newfoundland and Labrador and outline some of the programs implemented which are in keeping with the spirit of the Covenant.

ARTICLE 6: THE RIGHT TO WORK

(1) While it is normally accepted in the Province of Newfoundland and Labrador that everyone has the right to work, this norm is tempered by the availability of employment opportunities and occupational qualifications required to perform specific tasks. The Newfoundland Human Rights Code, R.S.N. 1970, Section 9(1) as amended by The Human Rights Code (Amendment) Act, 1974:

> "9.-(1) No employer, or person acting on behalf of an employer, shall refuse to employ or to continue to employ or otherwise discriminate against any person in regard to employment or any term or condition of

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* Report prepared by the Government of the Province of Newfoundland and Labrador.

> employment because of
>
> (a) that person's race, religion, religious creed, sex, marital status, political opinion, colour or ethnic, national or social origin; or
>
> (b) subject to subsection (5), that person's age, if that person has attained the age of nineteen years and has not attained the age of sixty-five years,"

guarantees against discrimination in regard to access to employment on the grounds of race, religion, religious creed, sex, marital status, political opinion, colour or ethnic, national or social origin and age between 19 years and 65 years. Subsection (5) of Article 9 provides that:

> "The provisions of subsections (1), (3) and (4) as to age shall not apply to
>
> (a) termination of employment because of the terms or conditions of any bona fide retirement or pension plan;
>
> (b) operation of the terms or conditions of any bona fide retirement or pension plan which have the effect of a minimum service requirement; or
>
> (c) operation of the terms or conditions of any bona fide group or employee insurance plan."

(2) In an effort to provide maximum opportunities for the acquisition of, and for the upgrading of employment skills, the Province of Newfoundland and Labrador has embarked upon an elaborate program of technical training through a vocational college and vocational training schools strategically located throughout the Province and through a program of on-the-job apprentice training.

Educational programs which are designed to assist in the upgrading of academic skills for further vocational training are in effect. Educational programs designed to prepare physically and mentally handicapped persons for vocational training are in effect. Educational programs designed to prepare women wishing to return to the work force after a prolonged absence are in effect. For details see the Directory of Public Service Programs, 1977, page 7, copy of which is being forwarded to the Secretary-General of the United Nations with this report.

The Newfoundland Human Rights Code, R.S.N. 1970 as amended by The Human Rights Code (Amendment) Act, 1974, in Section 9(1) quoted above, provides protection against arbitrary termination of employment on the grounds of a person's race, religion, religious creed, sex, marital status, political opinion, colour or ethnic, national or social origin. The Labour Standards Act, Chapter 52, S.N. 1977, Section 41, provides protection against arbitrary termination of employment on the grounds of pregnancy and Section 48 of the same Act provides protection against termination of employment without due and proper notice. Copies of these acts are being sent to the Secretary-General with this report.

ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

Legislation in effect in the Province of Newfoundland and Labrador at the time of accession to the Covenant by Canada basically fulfills the requirements of this article.

A. Remuneration

The act to provide uniform standards of conditions of employment in the Province, The Labour Standards Act, Chapter 52, S.N. 1970, Section 27, provides for the establishment of a minimum wage.

Provisions of Sections 30 and 31 of the same Act require a mandatory review of minimum wage every two years or, if it is deemed expedient by the Minimum Wage Board or if the Lieutenant-Governor in Council directs, the Board will review the minimum wage order within a lesser period of time.

The Newfoundland Human Rights Code (Amendment) Act, 1974, Section 10:-

> "10.-(1) No employer, and no person acting on his behalf, shall establish or maintain differences in wages between male and female employees, employed in the same establishment who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility, except where such payment is made pursuant to
>
> (a) a seniority system, or
>
> (b) a merit system,"

provides for and ensures respect of the right to equal pay for equal work and ensures the conditions of work of women are not inferior to those enjoyed by men.

B. Safe and Healthy Working Conditions

The Workmen's Compensation Board is charged with the administration of industrial safety legislation and the promotion of safe and healthy working conditions throughout the

Province. See The Workmen's Compensation Act, Chapter 340, R.S.N. 1970, copy of which is being sent to the Secretary-General with this report.

The Engineering and Technical Branch of the Department of Labour and Manpower inspects and enforces regulations pertaining to safety features relating to pressurized vessels and elevator and hoist operations.

The Mines (Safety of Workmen) Regulations specify minimum safety requirements for persons employed in mines.

C. Equal Opportunity for Promotion

The Newfoundland Human Rights Code (Amendment) Act, 1974, Section 10(2):-

> "10.-(2) A female employee employed in the same establishment as a male and who is performing under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility shall have
>
> (a) opportunities for training and advancement, and
>
> (b) pension rights and insurance benefits equal to those applicable to the male."

provides for equal opportunities for training and advancement of female employees equal to those applicable to male employees. Section 9(1), quoted earlier, also applies.

D. Rest, Leisure, Limitation of Work Hours and Holidays with Pay

The Labour Standards Branch of the Department of Labour and Manpower is charged with the administration of The Labour Standards Act, Chapter 52, S.N. 1977, which includes provisions providing for a day of rest (section 22), daily minimum hours (section 23), rest periods (section 24), vacation with pay (section 8), and public holidays (section 15).

At present employees are permitted periods of rest of not less than half an hour immediately following each five consecutive hours employed, and a rest period of not less than twenty-four consecutive hours during each week of employment.

The Lieutenant-Governor in Council may make regulations fixing the number of hours in a week or fixing a maximum number of hours and days in each week. Provisions for an annual vacation with pay of not less than two weeks are provided for and provisions pertaining to paid public holidays have passed through the Legislature.

ARTICLE 8: TRADE UNION RIGHTS

A. Trade Unions Rights

(I) The Labour Relations Act, 1977, Chapter 64, S.N. 1977, in the Province of Newfoundland and Labrador provides for collective bargaining, certification, conciliation proceedings, strikes and lock outs and the establishment of a Labour Relations Board in the Province. Copy of this Act is being sent to the Secretary-General with Canada's report.

(II) The Right to Form and Join a Trade Union: Part III of The Labour Relations Act, 1977, Section 5, provides for the formation of trade unions. Part II of The Labour Relations Act, 1977, provides for an employee's right to membership. The Newfoundland Human Rights Code, Chapter 262, R.S.N. 1970 as amended by The Human Rights Code (Amendment) Act, 1974, Section 9(3):-

> "9.-(3) No trade union shall exclude any person from full membership or expel or suspend or otherwise discriminate against any of its members or discriminate against any person in regard to his employment by any employer, because of
>
> (a) that person's race, religion, religious creed, sex, marital status, political opinion, colour or ethnic, national or social origin; or
>
> (b) subject to subsection (5)*, that person's age, if that person has attained the age of nineteen years and has not attained the age of sixty-five years."

prevents discrimination by trade unions on the grounds of race, religion, religious creed, sex, marital status, political opinion, colour or ethnic, national or social origin.

B. Right of Trade Unions to Federate

The Labour Relations Act, 1977, Chapter 64, S.N. 1977, Section 91, provides for affiliation and/or federation of trade unions within the Province of Newfoundland and Labrador.

C. Right of Trade Unions to Function Freely

Those rights are provided for in The Labour Relations Act, 1977, Chapter 64, S.N. 1977, Part 3, Divisions 1 and 2.

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* Subsection 5 was quoted earlier under article 6.

D. Right to Strike

Upon following the collective bargaining provisions, conciliation proceedings and possibly the appointment of a Conciliation Board, a union, upon receiving a mandate from the majority of its members, may exercise the right to strike. The Labour Relations Act, 1977, Chapter 64, S.N. 1977, Part 5.

ARTICLE 9: RIGHT TO SOCIAL SECURITY

Many of the social security benefits come under the federal jurisdiction. However, in the Province of Newfoundland and Labrador the medical care program is available to all residents of the Province. See page 23 of the Directory of Public Service Programs, 1977, copy of which is being sent to the Secretary-General with this report.

Cash sickness benefits are obtainable through various insurance programs.

Legislation pertaining to maternity benefits in relation to job security are provided for in The Labour Standards Act, S.N. 1977, Part 6. Actual confinement and medical care relating to maternity are provided for by Medicare.

Invalidity benefits are provided for through social service programs.

Old age benefits are provided through the federal government. Survivors' benefits are provided for through insurance policies, collective agreements, and through the Newfoundland and Labrador Department of Social Services. Employment injury benefits are provided for through the Workmen's Compensation Board, collective agreements and through individually purchased insurance programs. Unemployment benefits are provided for through the Government of Canada. Family benefits are provided for by the Government of Canada and the Newfoundland and Labrador Department of Social Services.

APPENDIX 1: STATISTICS TABLES

TABLE 1

LABOUR FORCE STATISTICS 1979
(annual averages)
(in thousands)

	Canada	Newfoundland	Prince Edward Island	Nova Scotia	New Brunswick	Québec	Ontario	Manitoba	Saskatchewan	Alberta	British Columbia
Population 15 years of age and over											
both sexes	17,691	393	89	618	506	4,792	6,439	750	692	1,463	1,949
men	8,676	199	43	300	249	2,336	3,144	367	345	733	958
women	9,016	194	45	318	257	2,456	3,295	384	346	730	991
15-24 years	4,567	122	25	165	142	1,255	1,613	187	183	414	461
25 years and over	13,124	271	64	453	364	3,537	4,826	563	509	1,049	1,488
Labour force											
both sexes	11,207	207	53	352	280	2,878	4,289	478	433	1,015	1,223
men	6,799	137	32	218	175	1,786	2,533	289	272	617	741
women	4,408	70	21	134	105	1,093	1,756	189	161	398	481
15-24 years	3,025	65	16	102	81	766	1,121	131	126	300	318
25 years and over	8,182	142	37	250	199	2,113	3,168	348	307	715	904
Employed											
both sexes	10,369	175	47	316	249	2,602	4,008	453	415	976	1,129
men	6,347	116	29	198	157	1,630	2,390	275	262	597	692
women	4,022	59	18	118	92	972	1,618	177	152	379	436
15-24 years	2,632	49	13	83	66	640	990	118	116	281	276
25 years and over	7,737	126	33	233	182	1,962	3,019	335	299	695	853
Unemployment rate											
both sexes	7.5	15.4	11.3	10.2	11.1	9.6	6.5	5.4	4.2	3.9	7.7
men	6.6	15.0	...	9.3	10.3	8.7	5.6	4.7	3.4	3.2	6.6
women	8.8	16.1	...	11.7	12.5	11.1	7.8	6.3	5.4	4.9	9.3
15-24 years	13.0	25.0	...	18.3	18.2	16.4	11.7	9.7	7.7	6.5	13.2
25 years and over	5.4	12.5	...	6.9	8.2	7.1	4.7	3.7	2.7	2.8	5.7

... sample too small for calculation

Source: Labour Force; Statistics Canada, Ottawa

TABLE 2

SOCIAL SECURITY STATISTICS

	Canada	Newfoundland	Prince Edward Island	Nova Scotia	New Brunswick	Québec	Ontario	Manitoba	Saskatchewan	Alberta	British Columbia	Yukon	Northwest Territories
Average number Unemployment Insurance claimants per month 1979(p)													
	711,163	44,532	8,298	37,639	42,058	268,263	181,251	18,858	12,422	20,097	75,556	1,156	864
Average weekly payments 1979													
	$108.63	$102.02	$100.27	$98.48	$103.50	$108.31	$109.85	$108.56	$113.17	$122.66	$114.99	$124.72	$113.08

(p) preliminary

Source: Statistical report on the operation of the Unemployment Insurance Act; Statistics Canada, Ottawa

TABLE 3

LABOUR STATISTICS

Minimum Hourly Wage Rates as at January, 1980

	Newfoundland	Prince Edward Island	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskatchewan	Alberta	British Columbia	Yukon	Northwest Territories	Canada
Hourly rates													
	$2.80	$2.75 ($3.00)	$2.75	$2.80	$3.65	$3.00	$3.15	$3.50 ($3.65)	$3.00	$3.00	$3.00	$3.00	*$2.90
Effective dates													
	June/79	July/79 (July/80)	Jan./77	Nov./76	Jan./80	Jan./79	Jan./80	Oct./79 (May/80)	Mar./77	June/76	Apr./76	June/76	Apr./76

* pertaining to employment in areas under federal jurisdiction.

Source: Labour Canada, Ottawa

TABLE 4

CANADA	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
Average Weekly Earnings in Selected Industries (annual averages)										
Forestry	$137.60	155.53	172.92	197.04	219.64	249.58	287.36	312.81	326.48	360.29
Mining	$164.70	177.00	190.29	211.42	238.97	280.44	317.13	348.12	376.40	419.39
Manufacturing	$132.75	143.99	156.10	167.48	185.62	213.43	241.19	266.04	285.67	311.19
Construction	$167.15	188.26	209.90	225.45	250.30	290.95	331.02	369.88	389.64	422.28
Service	$ 90.65	98.57	107.32	114.53	126.08	143.68	160.49	171.28	180.00	193.26
Industrial Composite[1]	$126.82	137.64	149.22	160.46	178.09	203.34	228.03	249.95	265.37	288.25
Annual average increase in industrial composite earnings	% 7.8	8.5	8.4	7.5	11.0	14.2	12.1	9.6	6.2	8.6
Consumer Price Index[2] for Selected Components And All-Items (1971 = 100)										
Food	$ 98.9	100.0	107.6	123.3	143.4	161.9	166.2	180.1	208.0	235.4
Housing	$ 95.7	100.0	104.7	111.4	121.2	133.2	148.0	161.9	174.1	186.2
All-items	$ 97.2	100.0	104.8	112.7	125.0	138.5	148.9	160.8	175.2	191.2
Annual average increase in all-items index	% 3.3	2.9	4.8	7.5	10.9	10.8	7.5	8.0	9.0	9.1

(1) sum of all industries
(2) formerly known as Cost-of-Living Index

Source: Employment Earnings and Hours;)
The Consumer Price Index;) Statistics Canada, Ottawa

TABLE 5 AVERAGE ANNUAL EARNINGS OF WOMEN AND MEN FULL-YEAR WORKERS, BY OCCUPATION,1967-1978

YEAR	MANAGERIAL		PROFESSIONAL		CLERICAL		SALES		SERVICES	
	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men
1967	3,732	8,784	4,928	9 222	3,623	5,548	2,292	6,096	2,147	4,741
1968*										
1969	4,909	10,125	5,809	10,495	4,120	6,391	2,648	7,059	2,588	5,840
1970*										
1971	5,366	11,128	7,276	12,104	4,610	7,226	2,947	7,896	3,000	6,379
1972	6,908	13,384	7,220	12,405	4,962	7,769	3,771	9,567	2,926	7,507
1973	8,335	14,731	7,770	13,500	5,584	8,483	3,942	10,187	3,368	7,796
1974	9,015	16,809	8,923	14,643	6,253	9,661	5,638	12,063	4,182	8,923
1975	10,805	18,747	8,123	16,772	5,852	11,045	4,130	13,758	3,301	10,136
1976	12,299	23,145	11,479	19,051	7,852	12,656	5,216	15,214	3,766	11,428
1977	12,117	20,871	11,585	19,067	8,676	13,610	6,956	14,816	6,057	12,544
1978	13,250	24,337	13,484	21,865	9,592	14,403	7,193	16,456	6,372	13,258

* Source material published bi-annually only pre - 1971, and annually thereafter.

Source: 1967: Dominion Bureau of Statistics, Consumer Finance Research Staff, Income Distributions By Size in Canada 1967, Cat. No. 13-534 (Ottawa: Queen's Printer, 1970), pp. 55-56.

1969: Dominion Bureau of Statistics, Consumer Finance Research Staff, Income Distributions By Size in Canada 1969, Cat. No. 13-544 (Ottawa: Queen's Printer, 1972), p. 53.

1971 to 1978: Statistics Canada, Consumer Income and Expenditure Division, Income Distributions By Size in Canada 197_ ('71-'77) Cat. No. 13-207 Ottawa: Information Canada, 197_ ('73-'79), pp. 102, 61, 101, 65, 103, 73, 111 and 72, respectively.

TABLE 6 Total Number of Claims Settled(1) by Workmen's Compensation Boards, Shown by Broad Categories, for Provinces, 1975 to 1977

TABLEAU 6 Total des demandes d'indemnités réglées(1) par les Commissions des accidents du travail selon chaque grande catégorie de demande, par province, 1975 à 1977

Province and year Province et année	Total	Fatal Indemnités pour cause de décès	Non fatal - Autres Sub-total Total partiel		
				Medical aid and wage loss compensation Indemnités pour soins médicaux et perte de salaire	Medical aid only Soins médicaux uniquement
	1 = 2 + 3	2	3 = 4 + 5	4	5
Newfoundland - Terre-Neuve:					
1975	11,990	30	11,960	6,260	5,700
1976	13,938	42	13,896	6,598	7,298
1977	12,945	33	12,912	6,218	6,694
Prince Edward Island - Île-du-Prince-Édouard:					
1975	2,797	3	2,794	1,420	1,374
1976	2,804	5	2,799	1,504	1,295
1977	3,025	6	3,019	1,517	1,502
Nova Scotia - Nouvelle-Écosse:					
1975	30,620	24	30,596	11,850	18,746
1976	30,453	39	30,414	12,099	18,315
1977	29,483	21	29,462	11,713	17,749
New Brunswick - Nouveau-Brunswick:					
1975	27,005	48	26,957	8,576	18,381
1976	26,225	25	26,200	9,515	16,685
1977	23,254	22	23,232	9,052	14,180
Atlantic provinces - Provinces de l'Atlantique:					
1975	72,412	105	72,307	28,106	44,201
1976	73,420	111	73,309	29,716	43,593
1977	68,707	82	68,625	28,500	40,125
Québec:					
1975	283,855	241	283,614	147,109	136,505
1976	282,684	266	282,418	156,344	126,074
1977	277,478	214	277,264	137,063	140,201
Ontario:					
1975	367,937	221	367,716	143,762	223,954
1976	397,980	203	397,777	154,317	243,460
1977	395,146	175	394,971	150,729	244,242
Manitoba:					
1975	36,174	41	36,133	18,440	17,693
1976	35,666	35	35,631	18,871	16,760
1977	34,514	34	34,480	18,244	16,236

See footnote(s) at end of table.
Voir note(s) à la fin du tableau.

TABLE 6 Total Number of Claims Settled(1) by Workmen's Compensation Boards, Shown by Broad Categories, for Provinces, 1975 to 1977 - Concluded

TABLEAU 6 Total des demandes d'indemnités réglées(1) par les Commissions des accidents du travail selon chaque grande catégorie de demande, par province, 1975 à 1977 fin

Province and year Province et année	Total	Fatal Indemnités pour cause de décès	Non fatal - Autres		
			Sub-total Total partiel	Medical aid and wage loss compensation Indemnités pour soins médicaux et perte de salaire	Medical aid only Soins médicaux uniquement
	1 = 2 + 3	2	3 = 4 + 5	4	5
Saskatchewan:					
1975	29,622	45	29,577	14,145	15,432
1976	34,668	46	34,622	15,519	19,103
1977	35,980	47	35,933	16,203	19,730
Alberta:					
1975	86,365	124	86,241	34,205	52,036
1976	100,183	125	100,058	41,363	58,695
1977	104,854	141	104,713	43,463	61,250
Prairie provinces - Provinces des Prairies:					
1975	152,161	210	151,951	66,790	85,161
1976	170,517	206	170,311	75,753	94,558
1977	175,348	222	175,126	77,910	97,216
British Columbia - Colombie-Britannique:					
1975	111,790	180	111,610	54,284	57,326
1976	119,904	150	119,754	56,110	63,644
1977	122,971	138	122,833	60,305	62,528
Yukon:					
1975	1,599	4	1,595	780	815
1976	1,426	1	1,425	669	757
1977	1,536	2	1,534	736	798
Northwest Territories - Territoires du Nord-Ouest:					
1975					
1976	(2)				
1977	2,265(3)	9	2,256	2,256	-
TOTAL:					
1975	989,754	961	988,793	440,831	547,962
1976	1,045,931	937	1,044,994	472,909	572,086
1977	1,063,451	842	1,042,609	457,499	585,110

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(1) Total number compensated during the year, including claims originating in prior years and compensated in the given year.

(1) Total des demandes pour lesquelles le paiement d'indemnités a été autorisé au cours de l'année, y compris les demandes présentées au cours des années précédentes et réglées au cours de l'année visée.

(2) The program under the current legislation has been effective since January 1, 1977.

(2) Le programme appliqué en vertu de la loi actuelle est en vigueur depuis le 1^{er} janvier 1977.

(3) Total reported during the year; does not include claims of earlier years.

(3) Total déclaré au cours de l'année; ne comprend pas les demandes d'indemnités des années antérieures.

Source: Records of the federal Department of Labour.

Source: Dossiers de Travail Canada.

TABLE 7 Work Injury Compensation and Related Payments by Workmen's Compensation Boards, by Type, for Provinces, 1975 to 1977

TABLEAU 7 Paiements d'indemnisation et paiements connexes effectués par les Commissions des accidents du travail, par type et par province 1975 à 1977

Province and year Province et année	Total payment Total des paiements	Pension	Wage loss compensation Indemnités pour perte de salaire	Health - Santé			Funeral and related Funérailles et dépenses connexes
				Sub-total Total partiel	Medical aid Soins médicaux	Hospital and rehabilitation Hôpital et réadaptation	
	1 = 2+3+4+7	2	3	4 = 5 + 6	5	6	7
	thousands of dollars - milliers de dollars						
Newfoundland - Terre-Neuve:							
1975	7,127	2,050	3,529	1,526	..	..	22
1976	8,443	2,050	4,627	1,741	..	..	25
1977	9,569	3,005	4,833	1,706	..	..	25
Prince Edward Island - Île-du-Prince-Édouard:							
1975	1,083	311	513	257	112	145	1
1976	1,336	379	626	329	135	194	2
1977	1,485	462	660	361	140	221	3
Nova Scotia - Nouvelle-Écosse:							
1975	18,111	5,904	9,715	2,473	1,310	1,163	20
1976	21,153	6,558	11,383	3,180	1,740	1,440	33
1977	23,345	6,971	12,795	3,559	1,967	1,592	20
New Brunswick - Nouveau-Brunswick:							
1975	11,773	3,005	5,515	3,233	1,002	2,231	20
1976	14,921	4,277	6,988	3,643	914	2,729	13
1977	15,616	4,336	7,059	4,214	868	3,346	7
Atlantic provinces - Provinces de l'Atlantique:							
1975	38,094	11,270	19,272	7,489	..	..	63
1976	45,853	13,264	23,624	8,893	..	..	72
1977	50,015	14,774	25,347	9,840	..	..	55
Québec:							
1975	171,967	55,738	75,036	40,798	25,172	15,626	395
1976	195,501	54,829	92,435	48,109	28,240	19,869	128
1977	231,300	65,617	112,822	52,706	32,678	20,028	156
Ontario:							
1975	274,477	65,565	156,935	51,827	48,902	2,925	150
1976	336,506	76,561	199,038	60,757	56,321	4,436	150
1977	348,731	84,742	202,885	60,954	55,800	5,154	150
Manitoba:							
1975	15,907	4,543	8,298	3,051	1,459	1,592	14
1976	18,642	5,329	9,779	3,523	1,574	1,949	11
1977	21,177	6,207	11,089	3,869	1,766	2,103	11

See footnote(s) at end of table.
Voir note(s) à la fin du tableau.

TABLE 7 Work Injury Compensation and Related Payments by Workmen's Compensation Boards, by Type, for Provinces, 1975 to 1977- Concluded

TABLEAU 7 Paiements d'indemnisation et paiements connexes effectués par les Commissions des accidents du travail, par type et par province, 1975 à 1977 - fin

Province and year Province et année	Total payment Total des paiements	Pension	Wage loss compensation Indemnités pour perte de salaire	Health - Santé			Funeral and related Funérailles et dépenses connexes
				Sub-total Total partiel	Medical aid Soins médicaux	Hospital and rehabilitation Hôpital et réadaptation	
	1 = 2+3+4+7	2	3	4 = 5 + 6	5	6	7
	thousands of dollars - milliers de dollars						
Saskatchewan:							
1975	18,642	6,956	8,275	3,364(1)	..	..	47(1)
1976	21,050	6,694	10,471	3,832(1)	..	..	53(1)
1977	25,960	8,903	12,123	4,868(1)	..	..	65(1)
Alberta:							
1975	44,760	13,779	21,270	9,599(1)	..	..	112(1)
1976	56,237	15,265	27,761	13,069(1)	..	..	141(1)
1977	65,681	18,085	32,963	14,469(1)	..	..	164(1)
Prairie provinces - Provinces des Prairies:							
1975	79,309	25,278	37,843	16,014(2)	..	..	173(2)
1976	95,929	27,288	48,011	20,423(2)	..	..	205(2)
1977	112,818	33,195	56,175	23,206(2)	..	..	240(2)
British Columbia - Colombie-Britannique:							
1975	93,444	24,924	48,155	19,999	11,243	8,756	366
1976	100,729	28,391	48,308	23,659	13,995	9,664	372
1977	114,437	31,892	56,309	25,922	16,551	9,271	314
Yukon:							
1975	550	50	319	180	..	..	1
1976	1,201	596	350	253	..	..	2
1977	1,166	540	353	271	..	..	2
Northwest Territories - Territoires du Nord-Ouest:							
1975							
1976	(3)						
1977	969	93	489	387	387	-	-
TOTAL:							
1975	657,841	182,825	337,560	136,307	..	..	1,148
1976	775,719	200,929	411,766	162,094	..	..	929
1977	859,436	230,853	454,380	173,286	..	..	917

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(1) Expenditures for health and funeral services were reported together; the distribution as shown was estimated.

(1) Le coût des services de santé et des services funéraires ont été déclarés ensemble; la répartition indiquée n'est qu'approximative.

(2) Includes an estimated component.

(2) En partie approximatif.

(3) The program under the current legislation has been in effect as of January 1977.

(3) Le programme appliqué en vertu de la loi actuelle est en vigueur depuis janvier 1977.

Note: Pensions include pensions paid to surviving dependents.

Nota: Les pensions comprennent les pensions versées aux personnes à charge survivantes.

Source: Records of the federal Department of Labour.

Source: Dossiers de Travail Canada.

TABLE 8

Fatalities* by Industry, Canada, 1969-1978P

Industry** / Year	Agriculture (1)		Forestry (2)		Fishing (3)		Mining (4)		Manufacturing (5)		Construction (6)		Transport (7)		Trade (8)		Finance (9)		Service (10)		Public Administration (11)		Totals	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
1969	30	2.7	88	7.8	18	1.6	169	15.0	207	18.3	235	20.8	206	18.2	60	5.3	2	0.2	50	4.4	64	5.7	1129	100
1970	15	1.4	94	8.9	25	2.4	155	14.6	183	17.2	196	18.5	187	17.6	62	5.8	4	0.4	60	5.6	81	7.6	1062	100
1971	21	1.8	94	8.3	11	1.0	169	14.8	188	16.5	225	19.8	205	18.0	79	6.9	4	0.4	76	6.7	67	5.9	1139	100
1972	30	2.4	77	6.2	8	0.6	174	14.0	261	21.0	209	16.8	227	18.3	73	5.9	6	0.5	113	9.1	65	5.2	1243	100
1973	30	2.2	100	7.2	15	1.1	182	13.2	259	18.8	227	16.4	269	19.5	87	6.3	6	0.4	101	7.3	104	7.5	1380	100
1974	33	2.3	85	6.0	11	0.8	201	14.2	308	21.7	232	16.4	254	17.9	119	8.4	7	0.5	104	7.3	63	4.4	1417	100
1975	13	1.1	71	6.1	27	2.3	158	13.5	222	18.9	218	18.6	216	18.4	75	6.4	3	0.3	84	7.2	85	7.3	1172	100
1976	18	1.7	64	6.0	27	2.6	161	15.2	195	18.4	189	17.9	217	20.5	62	5.9	10	0.9	61	5.8	54	5.1	1058	100
1977	16	1.7	59	6.3	18	1.9	128	13.6	180	19.1	171	18.1	176	18.7	73	7.7	9	1.0	64	6.8	49	5.2	943	100
1978P	6	0.8	71	8.9	14	1.8	100	12.6	142	17.9	133	16.8	172	21.7	51	6.4	4	0.5	41	5.2	60	7.6	794	100
1969-1978P Average	21	1.9	80	7.1	17	1.5	160	14.1	215	19.0	204	18.0	213	18.8	74	6.5	6	0.5	75	6.6	69	6.1	1134	100

*Includes deaths arising out of occupational illnesses and deaths of workers who were on pension for an earlier disabling injury.

**Includes: (1) related services. (2) related services. (3) hunting and trapping. (4) quarrying and oil wells. (5) related services. (6) related services. (7) storage; communication; electric power, gas and water utilities; highway maintenance. (8) related services. (9) insurance and real estate. (10) community, business and personal services. (11) defence.

P: preliminary

Figures may not add due to rounding.

Source: Occupational Security and Health Branch, Department of Labour, October 1979

TABLE 9

Fatalities in Canadian Industry by Occupational Injuries and Illnesses , 1975- 1978P

	Occupational Injuries**				Occupational Illnesses				Total			
Industry*	1975	1976	1977	1978P	1975	1976	1977	1978P	1975	1976	1977	1978P
Agriculture	13	18	16	6	0	0	0	0	13	18	16	6
Forestry	71	64	59	71	0	0	0	0	71	64	59	71
Fishing	27	27	18	14	0	0	0	0	27	27	18	14
Mining	69	84	77	55	89	77	51	45	158	161	128	100
Manufacturing	175	152	136	120	47	44	44	22	222	196	180	142
Construction	210	178	163	131	8	9	8	2	218	187	171	133
Transport	212	216	174	170	4	2	2	2	216	218	176	172
Trade	72	62	73	50	3	0	0	1	75	62	73	51
Finance	3	10	9	4	0	0	0	0	3	10	9	4
Service	83	61	64	39	1	0	0	2	84	61	64	41
Public Administration	82	54	49	58	3	0	0	2	85	54	49	60
Totals	1,017	926	838	718	155	132	105	76	1,172	1,058	943	794

Breakdown of fatalities into occupational injuries and occupational illnesses cases prior to 1975 is not available.

**Includes deaths of workers who were on pension for an earlier disabling injury.

* See footnote (*) Table 8 P: preliminary

Source: Occupational Security and Health Branch, Department of Labour, October 1979

TABLE 10

Fatalities* in Canadian Industry by Type of Accident, 1975-1978P

A - Numerical Distribution

Type of accident Year	Transport (1)	Struck by or against (2)	Caught in on, or between (3)	Fall & slip (4)	Drowning & asphyxiation (5)	Cardio-vascular strain (6)	Over-exertion (7)	Systemic poisoning (8)	Occupational illnesses (9)	Fire, explosion, temperature extremes (10)	Contact with electric current (11)	Late effects (12)	Misc. (13)	Total
1975	265	230	81	102	61	70	11	23	155	45	56	45	28	1,172
1976	275	161	81	113	53	44	17	7	132	45	39	65	26	1,058
1977	280	153	57	81	36	51	8	14	105	32	55	37	34	943
1978P	233	130	53	69	49	50	0	7	76	19	29	51	28	794

B - Percentage Distribution

Year	Transport (1)	Struck by or against (2)	Caught in on, or between (3)	Fall & slip (4)	Drowning & asphyxiation (5)	Cardio-vascular strain (6)	Over-exertion (7)	Systemic poisoning (8)	Occupational illnesses (9)	Fire, explosion, temperature extremes (10)	Contact with electric current (11)	Late effects (12)	Misc. (13)	Total
1975	22.6	19.6	6.9	8.7	5.2	6.0	0.9	2.0	13.2	3.8	4.8	3.8	2.4	100.0
1976	26.0	15.2	7.7	10.7	5.0	4.2	1.6	0.7	12.5	4.3	3.7	6.1	2.5	100.0
1977	29.7	16.2	6.0	8.6	3.8	5.4	0.8	1.5	11.1	3.4	5.8	3.9	3.6	100.0
1978P	29.3	16.4	6.7	8.7	6.2	6.3	-	0.9	9.6	2.4	3.7	6.4	3.5	100.0

*Includes deaths arising out of occupational illnesses and deaths of workers who were on pension for an earlier disabling injury.

**Includes: (1) Collisions, crashes, derailments,etc., of motor vehicles, ships, planes, trains, industrial vehicles.(2) stepping on, landslides and cave-ins. (3) Machinery, vehicles,etc. (4) on same or different levels. (5) drownings in boat accidents and falls into water. (6) arterial diseases, cerebrovascular diseases,etc. (7) strains, hernias,etc. (8) injuries affecting functioning of an entire body system such as poisoning, corrosive action affecting internal organs, damage to nerve centres,etc. (9) silicosis, asbestos; radiation effects such as lung cancer. (10) deaths from injuries in fires and explosions such as asphyxiation, falls, struck by flying objects. (11) lightning. (12) deaths more than a year after accident and deaths of workers who were on pension for an earlier disabling injury. (13) homicides, suicides, bites, stings, unspecified.

P: preliminary
Figures may not add due to rounding
Source: Occupational Security and Health Branch, Department of Labour, October 1979.

TABLE 11

PRINCIPAL STATISTICS/PRINCIPALES DONNÉES STATISTIQUES

Union Membership 1955-1978 with Estimates of Total Paid Workers in Non-Agricultural Industries in Canada (1955-1978) and Union Membership as Percentage of the Civilian Labour Force and the Total Non- Agricultural Paid Workers, 1955-1978.

Effectifs syndicaux de 1955 à 1978, total estimatif des travailleurs non agricoles touchant un salaire au Canada (1955-1978), pourcentage des effectifs syndicaux par rapport à la population civile active et à l'ensemble des travailleurs non agricoles touchant un salaire, 1955-1978.

Year — *Année*	Union Membership (Thousands) — *Effectifs syndicaux (en milliers)*	Total Non-Agricultural Paid Workers (Thousands) — *Nombre de travailleurs non agricoles touchant un salaire au Canada (en milliers)*	Union Membership as Percentage of Civilian Labour Force — *Pourcentages des effectifs syndicaux par rapport à la population civile active*	Union Membership as Percentage of Non-Agricultural Paid Workers — *Pourcentages des effectifs syndicaux par rapport aux travailleurs non agricoles touchant un salaire*
1955	1,268	3,767	23.6	33.7
1956	1,352	4,058	24.5	33.3
1957	1,386	4,282	24.3	32.4
1958	1,454	4,250	24.7	34.2
1959	1,459	4,375	24.0	33.3
1960	1,459	4,522	23.5	32.3
1961	1,447	4,578	22.6	31.6
1962	1,423	4,705	22.2	30.2
1963	1,449	4,867	22.3	29.8
1964	1,493	5,074	22.3	29.4
1965	1,589	5,343	23.2	29.7
1966	1,736	5,658	24.5	30.7
1967	1,921	5,953	26.1	32.3
1968	2,010	6,068	26.6	33.1
1969	2,075	6,380	26.3	32.5
1970	2,173	6,465	27.2	33.6
1971	2,231	6,637	26.8	33.6
1972	2,388	6,893	27.6	34.6
1973	2,591	7,181	29.2	36.1
1974	2,732	7,637	29.4	35.8
1975	2,884	7,817	29.8	36.9
1976	3,042	8,158	30.6	37.3
1977	3,149	8,243	31.0	38.2
1978	3,278	8,413	31.3	39.0

Source: Labour Organizations in Canada - Organisations de travailleurs
au Canada, 1978
Labour Canada/Travail Canada

TABLE 12

HEALTH STATISTICS

Canada	Newfoundland	Prince Edward Island	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskatchewan	Alberta	British Columbia	Yukon	Northwest Territories
Operating hospitals 1979												
1,313	48	12	55	37	248	307	106	145	159	144	6	46
Population per hospital bed 1979												
127	158	125	137	128	118	140	131	112	117	118	137	96
Population per active physician 1977												
566	704	865	568	886	544	538	572	679	642	539	880	1,294
Population per licensed dentist* 1977												
2,331	5,330	2,596	2,965	4,023	2,872	2,024	2,524	3,233	2,200	1,694	2,444	3,385
Population per active registered nurse 1976												
168	199	148	147	160	221	147	147	148	172	169	234	149
Population per licensed pharmacist 1977												
1,529	2,216	2,440	1,671	2,362	2,173	1,609	1,242	712	1,049	1,225	3,143	2,200
Per capita consolidated provincial-local government expenditure on health 1977												
----	$363.12	$416.15	$471.77	$371.94	$451.51	$452.28	$587.70	$494.54	$498.64	$462.00	$$496.35	$561.50

*active

Source: List of Canadian Hospitals; Statistics Canada, Ottawa
Canada Health Manpower Inventory; Health and Welfare Canada, Ottawa
Consolidated Government Finance; Statistics Canada, Ottawa

TABLE 13

SOCIAL SECURITY STATISTICS

	Canada	Newfoundland	Prince Edward Island	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskatchewan	Alberta	British Columbia	Yukon and Northwest Territories
Number of 1/ Old Age Security Beneficiaries 1977	2,086,082	40,444	14,117	85,480	64,941	513,707	755,581	112,106	107,636	142,777	247,548	1,745
Total net payments under 1/ Old Age Security Program 1976-77 ($'000)	4,436,672	98,062	32,793	191,973	147,373	1,134,178	1,535,639	239,903	229,525	306,133	516,720	4,373
Number of children receiving family allowances, family assistance or youth/schooling allowances........... 1977	7,243,525	223,839	40,936	272,078	235,937	1,927,051	2,534,919	322,687	306,186	617,441	735,187	27,264
Total net payments for family allowances, family assistance and youth/schooling allowances 1976-77 ($'000)	1,979,770	61,090	11,190	74,375	64,391	526,763	694,318	88,101	83,404	167,537	201,106	7,496
Number of beneficiaries under the Canada and Quebec 2/ Pension Plans...............1977	1,163,858	19,617	6,548	52,136	34,686	273,189	457,199	59,750	52,282	78,241	129,278	932
Total benefits paid under the Canada and Quebec 2/ Pension Plans.....1976-77 ($'000)	1,072,974	15,826	4,803	45,492	28,955	269,468	433,390	50,610	40,388	65,849	117,369	823

1/ includes old age security, guaranteed income supplement and spouses allowance

2/ includes retirement pensions, disability benefits and survivors' benefits

Source: Finance Canada; Employment and Immigration Canada; Health and Welfare Canada; Supply and Services Canada, Ottawa

APPENDIX 2

International Covenant on Economic, Social and Cultural Rights

THE STATES PARTIES TO THE PRESENT COVENANT,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 8

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous

improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2. *(a)* All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social

Council for consideration in accordance with the provisions of the present Covenant.

(*b*) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.
3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(*a*) Signatures, ratifications and accessions under article 26;

(*b*) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

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RÉF. No: G/SO 221/912
(à rappeler dans la réponse)

APPENDIX 3 GENERAL GUIDELINES FOR REPORTS ON ARTICLES 6-9 OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

prepared in accordance with resolution 1988 (LX) of the Economic and Social Council

I. GUIDELINES FOR REPORTING ON ALL THE RIGHTS RECOGNIZED IN ARTICLES 6-9 OF THE COVENANT

A. In accordance with Articles 16 and 17 of the Covenant and with the programme set forth in resolution 1988 (LX) of the Economic and Social Council, Governments of the States Parties to the Covenant are requested to report, by 1 September 1977, on the rights covered in Part III, Articles 6-9 of the Covenant. As mentioned in Articles 16 (1) and 17 (2) of the Covenant, Governments are invited to report on "the measures that they have adopted and the progress made in achieving the observance of the rights recognised" in these articles, and to indicate any "factors and difficulties affecting the degree of fulfilment of their obligations under these articles".

B. It is suggested that, in this first series of reports, Governments should describe the basic conditions prevailing in their countries as well as the basic programmes and institutions relevant to the rights dealt with in Articles 6-9, and that they should stress the developments regarding these conditions, programmes and institutions which have taken place since the entry into force of the Covenant, i.e. since 3 January 1976.

C. Where relevant information has previously been furnished to the United Nations or to a specialised agency - for instance under the system of periodic reports on human rights established by resolution 1074 C (XXXIX) of the Economic and Social Council or in reports under Articles 19 or 22 of the Constitution of the ILO - it will not be necessary to reproduce this information, but a precise reference to the information so furnished, preferably with indications of the relevant documents, will suffice.

D. It will be appreciated if copies of the principal laws, regulations, collective agreements and court decisions mentioned in the reports are attached.

E. In accordance with operative para. 2 of Council resolution 1988 (LX), the States Parties are requested, in reporting on the rights covered by Articles 6-9, to give attention to the matters dealt with in Parts I and II - Articles 1 to 5 - of the Covenant, namely:

(1) The right to self-determination, as recognized in Article 1 of the Covenant;

(2) Measures taken, difficulties encountered and progress achieved as regards ensuring the exercise of the rights covered by Articles 6-9 without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 2 (2));

(3) To what extent non-nationals are guaranteed the rights dealt with in Articles 6-9;

(4) Measures taken, difficulties encountered and progress achieved, under Article 3, as regards ensuring the equal rights of men and women to the enjoyment of the rights set forth in Articles 6-9;

(5) Limitations which may have been imposed upon the exercise of the rights set forth in Articles 6-9, the reasons therefor, and safeguards against abuses in this regard, with copies of the relevant laws, regulations and court decisions (Articles 4 and 5).

II. ARTICLE 6: THE RIGHT TO WORK

A. Principal laws, administrative regulations, collective agreements and court decisions designed to promote and safeguard the right to work as defined in this Article.

B. Information on:

(1) The right of everyone to gain his living by work which he freely chooses or accepts, with particular reference to freedom from compulsion in the choice of employment and guarantees against discrimination in regard to access to employment;

(2) Policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms of the individual;

(3) measures to ensure the best possible organisation of the employment market, with particular reference to manpower planning procedures, the collection and analysis of employment statistics and the organisation of an employment service;

(4) technical and vocational guidance and training programmes;

(5) protection against arbitrary termination of employment;

(6) protection against unemployment;

C. Statistical and other available information on the level of employment and extent of unemployment and underemployment in the country; difficulties affecting the degree of realization of the right to work and progress achieved in this field.

III. ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

A. Remuneration

1. Principal laws, administrative regulations, collective agreements and court decisions designed to promote and safeguard the right to fair remuneration in its various aspects as set out in Article 7 (a).

2. Principal methods used for fixing wages (minimum wage-fixing machinery, collective bargaining, statutory regulations, etc.) in the various sectors, and numbers of workers involved; information on the categories and numbers of workers for whom wages are not yet set by such methods.

3. Information regarding components of workers' remuneration other than regular wages (such as bonuses, temporary cost of living differentials, etc.).

4. Statistical data showing the evolution of the levels of remuneration (covering in particular minimum wages and average earnings in a representative sample of occupations) and of the cost of living.

5. Provisions and methods designed to ensure respect for the right to equal pay for work of equal value, and to ensure in particular that women are guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.

6. Difficulties encountered and progress made in extending to all workers measures designed to ensure that they receive fair remuneration providing a decent living for themselves and their families in accordance with the provisions of the Covenant.

B. Safe and healthy working conditions

1. Principal laws, administrative regulations, collective agreements and court decisions designed to promote and safeguard the right to safe and healthy working conditions, generally and in particular sectors or occupations.

2. Principal arrangements and procedures (including inspection services and various bodies at the national, industry, local or undertaking level entrusted with the promotion or supervision of health and safety at work)

to ensure that these provisions are effectively respected in individual work-places.

3. Information on any categories of workers or sectors for which measures designed to ensure safe and healthy working conditions have not yet been fully implemented, and on any progress made in extending this right to the worker concerned.

4. Statistical or other information concerning the number, nature and frequency of occupational accidents and cases of occupational diseases.

C. Equal opportunity for promotion

1. Principal laws, administrative regulations, collective agreements and court decisions designed to further and safeguard equality of opportunity for promotion in employment.

2. Principal arrangements and procedures to implement this right in the public and private sectors, including training programmes, placement policies, promotion procedures, career planning and the extent of the participation of the workers' representatives in such arrangements.

3. Factors and difficulties affecting the degree of realization of this right and progress achieved.

D. Rest, leisure, limitation of working hours, and holidays with pay

1. Principal laws, administrative regulations, collective agreements and court decisions designed to promote and safeguard the rights to rest, leisure, reasonable limitation of working hours, and periodic holidays with pay.

2. Information on the position, in law and practice in the various sectors of activity as regards: (i) weekly rest; (ii) normal hours of work and overtime; (iii) holidays with pay; (iv) remuneration for public holidays.

3. Principal arrangements and procedures to implement these rights in the various sectors, including industries and services where work is organized on a continuous basis, such as health care, the police, etc.

4. Factors and difficulties affecting the degree of realization of these rights and progress achieved.

IV. ARTICLE 8: TRADE UNION RIGHTS

A. Principal laws, administrative regulations, collective agreements and court decisions designed to promote, safeguard or regulate trade union rights in their various aspects as defined in this Article.

B. Right to form and join trade unions

1. An indication of the legal or other provisions governing the right to join and form the trade union of one's choice. If no formal provisions exist, a description of how the right is ensured in practice.

2. Any restrictions which are placed upon the exercise of this right, with precise details of the legal provisions prescribing such restrictions.

C. Right of trade unions to federate

Legal or other provisions governing the right of trade unions to join national federations or confederations and the right of the latter to form and join international trade union organizations; if no formal provisions exist, description of how this right is ensured in practice.

D. Right of trade unions to function freely

1. Conditions under which trade unions may exercise their right to function freely.

2. Any limitations to which this right may be subject.

E. Right to strike

Legal or other provisions governing or affecting the exercise of the right to strike; if no formal provisions exist, description of the position in practice in regard to this right.

F. Any special restrictions imposed upon the exercise of the rights mentioned in (B) - (E) above by members of the armed forces, the police or the administration of the State.

G. Factors and difficulties affecting the degree of realization of trade union rights in their various aspects, and progress achieved in this field.

V. ARTICLE 9: RIGHT TO SOCIAL SECURITY

1. Principal laws, administrative regulations, collective agreements, court decisions and other types of arrangements relating to the social security system including social insurance schemes.

2. Main features of the schemes in force for each of the branches of social security listed below, indicating in particular, for each branch, the percentage of the population covered, the nature and level of benefits, and the method of financing the scheme.

(a) medical care;
(b) cash sickness benefits;

(c) maternity benefits;
(d) invalidity benefits;
(e) old-age benefits;
(f) survivors' benefits;
(g) employment injury benefits;
(h) unemployment benefits;
(i) family benefits.

3. Factors and difficulties affecting the degree of realization of the right to social security; progress achieved, as regards, in particular, the covering of new fields of society security, the extension of existing schemes to further groups of the population and improvements in the nature or level of benefits.